

3.11 Hours and Attendance

This policy is about how we manage your hours of work and how you can request changes to your hours.

- Details of the working time rules that provide limits on your working hours are provided in Section 2 Working Time.
- Details of breaks you are entitled to during the working day are provided in Section 3 Breaks.
- If you are unable to get to work because of, for example, transport difficulties or severe weather conditions you are expected to attend work at another location – Section 9 Attendance During Withdrawal of Labour Situations, Disruption to Public Transport, Severe Weather Conditions, and Similar Situations

The following terms within this policy are defined in the glossary:

Conditioned hours, industrial staff, non-industrial staff, Flexible Working Time, Working time directive

You may also be interested in the following policies:

6.05 Equal Opportunities and Diversity (Dignity at work), 3.10 Alternative Working Patterns.

This policy is version 5.0

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This homepage is only a guide to the policy, not the policy itself. In the event of any discrepancy between the content of this homepage and the associated policy, the wording of the policy shall apply.

3.11 HOURS AND ATTENDANCE

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3.11 HOURS AND ATTENDANCE

1 Conditioned Hours

Non-Industrial Staff

1.1 For the majority of full-time non-industrial Civil Servants pay is related to a specific number of hours of attendance per week, known as ‘conditioned hours’. The number of hours varies between grades and may be expressed as a gross figure including meal breaks or a net figure excluding meal breaks.

1.2 Other than the exceptions listed below your normal conditioned hours are 42 gross a week, including a meal break of one hour a day. Where a shorter meal break is arranged a corresponding adjustment of the working hours may be allowed (see section 3.2).

1.3 Exceptions:

- a.** Grades conditioned to ‘all hours worked’, in other words where your attendance depends on the special nature of your duties and no conditioned hours are agreed. (Your rate of pay takes account of this fact):

Caretaker	Governor I/II/III/IV/V
Domestic Bursar	Probation Officers
Forest Officer I/II/III	Warden (DOE)
Assistant Warden (DOE)	

- b.** Grades conditioned to a 40 hours gross week:

Senior Supervisor of Security Guards	Supervisor of Security Guards
Team Leader	Senior Security Guard
Security Guard	

- c.** Grades conditioned to a 43 hours gross week:

Custodian (Carrickfergus Castle).

Industrial Staff

1.4 Industrial employees generally work a 37-hour week exclusive of meal breaks spread over five days, but there are some exceptions to this rule: within the Department of Agriculture and Rural Development, details of which can be obtained from the Departmental Establishment/Personnel Division. In certain circumstances (where specified in your individual contract) you may be required to work overtime. Where possible, advance notification will be given and due regard will be paid to any exceptional personal circumstances, which might make it impossible or difficult for you to work overtime. If you are employed on shift work, you must remain on duty until relieved of your responsibilities.

Part-Time Staff

1.5 The conditioned hours for part-time staff vary and are determined on appointment, or on a change of working pattern during employment. One variation of a part-time working pattern is term-time working and the rules and regulations covering this specific policy are outlined in Annex 4.

Detached Duty

1.6 If you are transferred on detached duty you will be conditioned to the pattern of hours of the office to which you are posted.

2 Working Time

General

2.1 The Working Time Regulations (Northern Ireland) 1998 provide rights and protection for workers (this includes all Civil Servants).

The Regulations

2.2 The regulations:

- a.** place a duty on employers to ensure that you are not required to work in excess of an average of 48 hours over 17 consecutive weeks;
- b.** introduced a limit of an average of 8 hours work in 24 which night workers can be required to work;
- c.** introduced a right to 11 hours rest a day, a right to a day off each week, a right to an in-work rest break if your working day is longer than six hours, a right to four weeks' paid leave per year and, if you are a night worker, a right to receive health assessments.

2.3 For further detailed information relating to the regulations, see Annex 1.

Young Workers

Definition:

2.4 Young workers are those who are over minimum school leaving age, but are under 18 years of age. The Directive, which was implemented in October 1998, introduced the following entitlements for you if you are in the above category:

- a.** a health and capacities assessment carried out prior to performing night work and reviewed on a regular basis thereafter;
- b.** two days off per week;
- c.** a minimum of 12 hours rest between each working day;
- d.** a minimum 30-minute rest break after 4½ hours continuous work.

Maximum Working Time for Young Workers

2.5 Additional aspects of the Directive came into force from 6 April 2003 under the Working Time (Amendment) Regulations (Northern Ireland) 2003 and are as follows:

- a.** The working hours of ‘young workers’ are limited to 8 hours in any day and 40 hours in any week (this requirement restricts the amount of flexi time credit that you can accrue as a young worker and the number of hours overtime that you can undertake).
- b.** There are various exceptions with regard to a. above:
 - i.** in the event of no adult worker being available to carry out work outside of normal working hours;
 - or
 - ii.** where the carrying out of the additional work would not affect your education or training circumstances, management can ask you to undertake the work to ensure continuity of service to the public or to meet a surge in demands for a particular service.

2.6 In these circumstances as a young worker you may be allowed to work in excess of the specified limits provided you are supervised by an adult worker. Where such supervision is necessary for your protection you must be allowed an equivalent period of compensatory rest.

Night Work by Young Workers

2.7 There is a restriction on you as a young worker working during the period 10 pm and 6 am or in the case where you are contracted to work after 10 pm, the period between 11 pm and 7 am. Management must ensure that, with some limited exceptions, young workers are not required to work during the period 10pm and 6am, or the period between 11pm and 7am where they are contracted to work after 10 pm.

2.8 There are some limited exceptions to the restriction (for example, working in a hospital, or working in connection with cultural, artistic, sporting or advertising activities). If a Department identifies a need for you as a young worker to work during the restricted period, advice from Corporate Human Resources (Corporate HR), should be sought.

3 Breaks

3.1 If you are conditioned to gross hours you are allowed a maximum meal break of one hour on any full working day. This allowance may be varied in the following circumstances:

- a.** where shorter meal breaks are taken to meet the requirements of management or staff;
- b.** where there are arrangements for flexible working hours (see section 11.1.), a shorter or longer meal break may be allowed.

3.2 Where a shorter meal break is allowed, it should not normally be reduced below 30 minutes.

3.3 If you are a Machine Operator, Typist or Telephonist you will be allowed a definite break each morning and afternoon. There is no such entitlement for other staff although permission will normally be given for morning and afternoon break to be taken. It is emphasised that time for this purpose should be kept to the absolute minimum and that no time credit can be given if you choose not to have a break.

4 Arrangement of the Working Week

4.1 The 5-day week is the standard arrangement throughout the Civil Service, although Departments have the right to call on you at any time should an emergency arise.

5 Exclusion of Weekend Overtime

5.1 Where the functions of an office do not require weekend working, but the volume of work is such that it cannot be performed within conditioned hours on the other five days, every effort should be made to ensure that the necessary overtime is worked Monday to Friday.

6 Attendance on Holidays and at Weekends

6.1 If you are required to attend work on Saturdays, Sundays, Public or Bank Holidays you will be compensated as set out in the HR Handbook sections 11-14 and 24 – 26. (see policy 8.03 Overtime Pay)

6.2 Attendance on privilege holidays does not attract compensation. You will be granted time off in lieu (see policy 3.06 Public and Privilege Holidays).

7 Working During Inclement Weather

7.1 If you work outside you are normally expected to carry on your work during inclement weather and, in recognition of this, protective clothing is issued. If a supervisory officer decides that the weather is so bad as to render useful work impossible at the usual work site (or any other location) on any day or part of a day, you will receive full pay for any period of time lost provided you remain on call if required to do so.

8 Late Starting after Night Duty with Security Forces or the Retained Fire Service

8.1 Where you are required to be on night duty with the Security Forces or the Retained Fire Service you may be allowed to report to your office not later than 10.30 am on the following morning. If exceptionally such duty is prolonged after 6.30 am special arrangements may be made at Departmental discretion. Your primary job is with your Department and secondary employment should not detract from the service you are expected to provide. It therefore follows that normally, and if the discharge of public business is not affected, Departments will release you if you are a member of the Retained Fire Service, if you are called out during office hours. However, you do not have an automatic right to release (the impact of the Working Time Regulations will be considered in such cases).

9 Attendance During Withdrawal of Labour Situations, Disruption to Public Transport, Severe Weather Conditions, and Similar Situations

Withdrawal of Labour

9.1 Where you are on annual leave when a withdrawal of labour occurs, either as part of an industrial action campaign or as part of a ‘political’ protest begins, or where annual leave has been authorised in advance to cover absence during the period, no special action is required of you. You should report for duty as usual at the end of your period of leave. Leave will not, however, be authorised specifically to enable you to take part in the industrial action or political protest and if when on annual leave you take an active part, you may be subject to disciplinary action.

9.2 Where you are absent due to sickness when a withdrawal of labour, either as part of an industrial action campaign or as part of a ‘political’ protest begins, you should continue to observe the sick absence regulations and report for duty as soon as you are fit to do so. Where you fall ill during a withdrawal of labour you should follow the normal rules for sick absence as described by the Sickness Absence User Guide in this handbook. If you are absent due to sickness and take an active part in the industrial action or political protest you may be subject to disciplinary action.

9.3 Where, during a withdrawal of labour, either as a part of an industrial action campaign or as part of a ‘political’ protest, you are unable to report to your normal place of duty because of transport difficulties or are unwilling to report to your normal place of duty because of intimidation you should notify your immediate line manager as soon as practicable, report any intimidation to the police and report for duty to an alternative office in accordance with the following guidelines:

- a.** Where there is no alternative office to your own Department within reasonable distance of your home, you should report to the nearest office of any other Department within reasonable distance (such reasonableness to be determined in light of all prevailing circumstances).
- b.** Unless you work in Police Service of Northern Ireland stations, these stations should not be regarded by you as possible alternative offices within the terms of this section.
- c.** You must follow the above terms even if an alternative office does not carry out your particular type of work.

9.4 Where you contact your immediate line manager as soon as practicable and your line manager is satisfied that you were not to be blamed for your absence (for example, that you have been intimidated, or that there were transport difficulties and you lived too far from both your own office and from any alternative office to walk to work) no action will be taken and your absence will be regarded as special leave with pay.

9.5 Where you contact your immediate line manager as soon as practicable, but your line manager concludes that your absence was due to fear of intimidation or transport difficulties which you might well have overcome, you will normally be given the option of covering the absence by annual leave or special leave without pay.

9.6 Where you fail to report difficulties in attending your normal place of work to your line managers (and to the police where intimidation is involved) pay will be withheld until the circumstances have been fully investigated and a decision taken as to whether payment may be allowed.

9.7 Where pleas are made under sections 9.4 and 9.5 above that absences were due to transport difficulties Departmental HR will decide in each case whether the transport difficulties were a sufficient cause for you to be absent. For example, it would not be unreasonable to expect most of you to walk a distance of four miles to your office. If you are judged to have too great a distance to walk you would be expected to satisfy your Department that you had explored all other possible ways of getting to your office.

9.8 This guidance must be followed by you on a daily basis for as long as normal attendance is prevented, subject to any alternative arrangements which may be notified to you in the light of local or Departmental circumstances (overcrowding of offices, and the like). Any such alternative arrangements will be covered by the principles of this Section.

9.9 Where you absent yourself in support of a call to withdraw labour or 'down tools' after reporting for duty, an appropriate deduction from pay will be made. Further action may also be considered, if appropriate, in the circumstances.

10 Unsatisfactory Attendance

10.1 The procedures for dealing with cases of unsatisfactory attendance are set out in the HR Handbook (see policy 6.07 Inefficiency Performance).

10.2 Action may be taken by a Department where you are absent without authority or have an excessive number of late attendances (for example deductions from pay, withdrawal from flexible working hours facility).

11 Flexible Working

Flexible Working Time

11.1 There is a considerable amount of flexibility in the way Departments may arrange the conditioned hours of the working week. A Department may, with the agreement of their Departmental Trade Union Side, introduce a Flexible Working Time facility (FWT). All FWT schemes must conform to the Code of Practice at Annex 2.

Alternative Working Patterns

11.2 Requests for alternative working patterns, under NICS Work Life Balance provisions, must be discussed with and approved by line management, with support from Departmental HR as necessary, as outlined in the Job Related Data Change User Guide.

Requests for Flexible Working Under the Employment (NI) Order 2002

11.3 The Employment (Northern Ireland) Order 2002, which came into effect on 6 April 2003, introduced specific rights to help you balance your family and employment responsibilities. Requests for flexible working under the Order must meet the criteria set out in the legislation. Management must give serious consideration to all requests, although there is no obligation to grant the request - business needs must be taken into account. Acceptance of a statutory application will lead to a change to contractual terms and conditions of employment, which will be permanent unless agreed otherwise at the outset. The alternative flexible working arrangements could, for example, be subject to a time limited variation or a variation by location or grade.

11.4 To be eligible to make a request under the Order you must:

- a.** have been employed by in the Northern Ireland Civil Service for at least 26 weeks continuously at the date the application is made;
- b.** have a child under 17 years of age, or under 18 years of age in the case of a disabled child;
- c.** make the application the day before the child's 17th birthday, or 18th birthday in the case of a disabled child;
- d.** be either the child's mother, father, adopter, guardian or foster parent; or be the partner of the child's mother, father, adopter, guardian or foster parent;
- e.** have, or expect to have, responsibility for the child's upbringing;
- f.** make the application to enable you to care for the child;
- g.** not have made an application under the Order during the previous 12 months.

11.5 The procedures and timescales to be followed in making an application are detailed at Annex 3.

12 Records of Attendance

12.1 Each Department will specify the extent to which your attendances should be recorded. Where, however, a flexible working time facility has been introduced special forms should be completed. Disciplinary action may be taken where you have an excessive number of late attendances, or there is inaccurate recording of hours worked under FWT.

Working Time Directive

1 Introduction

1.1 The Working Time Regulations (Northern Ireland) 1998 came into force on 23 November 1998.

2 Weekly Limit

2.1 The Regulations require Departments to take all reasonable steps to ensure that you do not work more than an average of 48 hours per week over a 17-week period. Managers should make every effort, in consultation with Ministers where appropriate, to ensure that deadlines and workloads take account of the need to avoid you having to work excessive hours. In cases where there is an unavoidable need to work in excess of the 48-hour limit and you are prepared to volunteer to work longer hours, you may be permitted to do so provided you sign an agreement to disapply the limits, as detailed in the Personal Data User Guide. It is important that if you sign such an agreement you do so freely - you must not feel under any pressure to do so - including fear of detriment of any kind.

3 Record Keeping

3.1 Departments/line managers must ensure that where voluntary agreements to work more than 48 hours are made, they maintain a record of:

- a. which members of staff have made this type of agreement; and
- b. what terms have been agreed to.

3.2 There is no need to continuously record your hours if you have not signed an agreement to disapply the limit. Line managers must, nevertheless, maintain such records as they deem necessary in order to show that the requirements of the Regulations are being complied with.

3.3 Where flexi sheets are used as records for the purposes of the Regulations you should hand them to line managers for retention at the end of each accounting period (to be destroyed at the end of the relevant 17-week reference period).

4 Access to Records by Trade Union Side

4.1 Information on the number and grades of staff who have signed an agreement to disapply the weekly limit should be made available to Trade Union Side. In addition, Departments should provide access to other information in relation to hours worked (where such is available) in accordance with existing Departmental practice. Where records are held by you as an individual worker - for example flexi sheet - it will be for you to decide whether or not to make such information available to the relevant Trade Union Side.

5 Calculation of Average Weekly Working Time

5.1 The calculation of average weekly working time must take account of periods where you are absent due to your leave entitlement under the Regulations, sick leave and maternity leave. If any of this leave occurs within a reference period, the number of hours worked in the first working days after the reference period must be added to total hours worked to balance the absence (see Appendix A).

5.2 Other authorised absence, such as special leave or additional contractual annual leave, should not be included in the total number of hours worked during the reference period. In calculating average weekly working time, such leave will serve to reduce the average hours worked. Flexi leave should also be excluded as it will be balanced by the appropriate credit hours worked before (or after) it has been taken.

6 Definition of Working Time

6.1 The Regulations define working time as:

- a.** any period during which you are at your employer's disposal and carrying out your activity or duties (all three elements must be satisfied) for time to be working time automatically;
- b.** any period during which you are receiving relevant training; and
- c.** any additional period which is to be treated as working time for the purpose of the Regulations under a relevant agreement.

6.2 All three elements must be satisfied for time to be considered working time automatically under the Regulations.

6.3 Working time is not limited to contractual hours, for example paid or unpaid overtime is counted as working time.

7 Circumstances that Should Normally Count as Working Time

7.1 The following circumstances should normally count as Working Time:

- a.** meals - where you are at the disposal of, or actively engaged on your Department's business, for example working lunches;
- b.** on call time - where you are actively engaged in the business of your Department, in other words only when called upon to perform your duties;
- c.** travel time - normal business travel (excluding time spent travelling between home and your normal place of work), in other words travel in the exercise of work duties and additional time spent travelling to a different workstation. An example would be travel to a detached duty station;
- d.** work performed away from the normal place of work - only where the work is performed on a basis agreed with your employer and the time is properly recorded. An example would be drafting a document at home;
- e.** other business engagements - only where you are required to attend work related functions as part of your duties; and
- f.** agreed time spent undertaking trade union or health and safety representative duties.

8 Staff with More than One Job

8.1 Departments must take all reasonable steps to ensure that the 48-hour limit is complied with in the case of each worker they employ. In order to do this they need to take account of any hours worked by you for other employers - for example part-time work in the evenings. To facilitate this, if you undertake part-time work which could result in you exceeding the limit you should consult your line manager. In most cases, you will have the option of either restricting your part-time hours to whatever extent is necessary in order to remain within the limit or signing an agreement, thus enabling you to exceed the limit.

9 Night Work

9.1 Departments must take steps to ensure that the hours night workers are contracted to work do not exceed an average of 8 hours in 24 hours over a 17-week period. This does not necessarily rule out longer or extra shifts and it should be noted that the night work limit is a separate limit to the weekly working hours limit. Significant overtime hours worked outside of 'normal hours' during a reference may breach the weekly working hours limit even though the night work limit itself is not exceeded.

9.2 The night work limit may be modified or excluded, or the reference period extended to 52 weeks by a collective or work force agreement. An agreement in existence before the Regulations came into force would be capable of securing such flexibility provided its terms satisfy the Regulations for you if it is of concern. Where the limit is adapted you must be permitted to take equivalent periods of compensatory rest. In exceptional circumstances, where providing such rest is not possible, you must be given other appropriate protection; however, this flexibility cannot be used on a routine basis.

9.3 If you are a night worker, or a worker who has become a night worker, your Department must provide you with the opportunity to have a free health assessment. At regular intervals thereafter, you must be given the opportunity for further free assessments. Where a registered medical practitioner has advised that you are suffering from health problems relating to night work, whenever possible you should be allowed to transfer from night work. The appropriate continuity arrangements should be applied when you transfer from night work.

10 Daily and Weekly Rest Periods and In-work Rest Breaks

10.1 You are entitled to a rest period of 11 consecutive hours between each working day; an uninterrupted period of not less than 24 hours in each 7-day period; and an uninterrupted break of at least 20 minutes when daily working time is more than 6 hours (Northern Ireland Civil Service terms and conditions provide most staff with a minimum 30 minute lunch break). The in-work rest break should be taken during working time and should not be taken either at the start or end of a working day; nor should it overlap with your daily rest. If you work normal hours over a 5-day week you will, in practice, have full opportunity to enjoy such breaks – for example lunch breaks and weekends. If you volunteer for overtime you may, in effect, be choosing to forgo some of your entitlement to rest breaks depending on the extent and timing of the overtime - for example working on Saturday and Sunday would make it impossible to avail of the weekly rest period. Provided that the overtime is worked on a voluntary basis the terms of the Regulations are not breached - in other words you have not been prevented by your employer from availing of your entitlement. Nevertheless you should be discouraged from working seven days a week on a regular basis.

Hours and Attendance

ANNEX 1 (Cont'd)

10.2 The entitlement to the rest periods and in-work rest breaks may be modified or excluded by a collective or workforce agreement. Such an agreement in force before the Regulations came into force is capable of securing this flexibility, provided the terms satisfied the Regulations for the workers concerned. Where the limits are adapted under the flexibility provided by the Regulations you must be permitted to take equivalent periods of compensatory rest.

10.3 If you are part-time staff and work for more than 6 hours you are entitled to take a rest break of at least 30 minutes.

10.4 Depending on individual circumstances you may need to have your terms and conditions of service amended to either reduce your hours below the limit (with a commensurate reduction in pay) or have your hours extended to maintain existing hours (and pay) while permitting you to avail of your entitlement to a rest break.

11 Pattern of Work

11.1 When patterns of work involving uninterrupted or monotonous activities put your health and safety at risk, Departments should ensure that such you are given adequate rest breaks.

12 Annual Leave

12.1 Under the Regulations you are entitled to at least four weeks paid annual leave. This is not additional to contractual entitlements. Taking contractual paid annual leave in a particular leave year, therefore, counts against the entitlement under the Regulations.

12.2 Most members of the Northern Ireland Civil Service enjoy annual leave entitlements ranging from 22 days to 30 days and in addition, are entitled to public and privilege holidays currently amounting to a maximum of 12 days. As these entitlements exceed the minimum entitlement under the Regulations, the only practical effect of the Regulations, insofar as entitlement to annual leave is concerned, is to require that you take at least the minimum entitlement under the Regulations in the leave year in which it falls due. As public and privilege holidays count towards the entitlement, if you are entitled to 12 such days you must also take at least a minimum of 8 days leave in a leave year. This requirement in some cases restricts the amount of annual leave that you would otherwise be entitled to carry over under the provisions of the policy 3.07 Annual Leave.

Hours and Attendance

ANNEX 1 (Cont'd)

12.3 As the provisions of the Regulations **override** the existing provisions within the Staff Handbook, Departments have no discretion to allow you to take less than the minimum amount in order to maximise the amount of leave available for carry over.

13 Enforcement

13.1 The limits (the weekly working time, night work limits and health assessment for night workers) will be enforced by the health and safety enforcing authorities, that is, the Health and Safety Executive (NI).

13.2 The entitlements (the weekly and daily rest, in-work rest breaks and annual leave) will be enforced through Industrial Tribunals.

13.3 Departments should note that the Regulations have effect in relation to Crown employment and Crown employees. For Crown employment, Article 36 provides that where there would have been an offence under Article 29, there may be an application to the High Court for a declaration that there has been an unlawful act or omission.

14 Agency and Freelance Staff

14.1 Departments must consider, in consultation with their own legal advisers, whether any Agency and freelance staff they use come within the definition of a worker used in the regulations. Article 35 covers you if you are an Agency worker who is not otherwise a worker, focusing on who is responsible for paying you.

14.2 If you are an Agency worker or freelance staff who comes within the definition of a worker in the Regulations, the Department will be responsible for ensuring that you receive the protection provided by the Regulations. That includes, for example, the right to paid leave.

Calculation of Average Working Time

Basic Calculation

1 The basic calculation is:

$$\frac{A + B}{C}$$

where A = the total hours worked during the reference period

B = the adjustment for any excluded days (see below)

C = the number of weeks in the reference period

Note that A + B must not exceed 816 hours over 17 weeks to satisfy the limit.

2 Excluded Days

2.1 In order to prevent absence from work – if the annual leave (only that due under the Regulations), sick absence, maternity leave, and the like (known as ‘excluded days’) is giving an artificially low average of hours worked, the average is adjusted by adding in the total hours worked in the days immediately following the reference period. (Any period in which a worker has agreed to work in excess of 48 hours per week is also treated as excluded).

2.2 The number of days actually added in is (obviously) equal to the number of excluded days, as shown in the examples below. Note that in the case of a fixed reference period the inclusion of days from the following reference period does not change the date on which that reference period starts. In effect, the days are taken into account twice - once in the previous reference period and again in the one to which they ‘belong’.

3 Examples of the Practical Effects of the Limits

3.1 Although the calculations of average working time can be quite complicated in some cases (numerous absences from work, some of which need to be ‘balanced out’, others which do not), in most cases there are simple tests which will indicate whether or not detailed calculations actually need to be carried out.

Hours and Attendance

APPENDIX A (Cont'd)

3.2 As mentioned above, the 48-hour average limit over 17 weeks equates to a limit on working time of 816 hours during the 17-week period (assuming no complications from excluded days). Therefore, a standard working week of 37 hours, excluding meal breaks, gives a margin of 187 hours potentially available for overtime working:

$$(48 \times 17) - (17 \times 37) = 187.$$

3.3 Assuming a standard 37-hour week (excluding meal breaks) and the standard 17-week reference period, overtime of 11 hours per week, every week, would bring an individual right up to the limit:

$$187/17 = 11$$

(Note that it is actual hours worked which count - not the premium time hours. Thus, while 7.4 hours overtime worked on a Sunday might attract 14.8 hours pay (7.4 hours at double time rate), only the 7.4 hours actually worked would score against the 48-hour limit.)

3.4 Assuming no other overtime is worked - for example on weekdays - 24 days of Saturday or Sunday working during the reference period would be just within the limit. One day worked of 7.4 hours each weekend during the 17-week reference period would leave up to 3.6 hours available each week for overtime working during the week.

4 Rules of Thumb

4.1 There are a number of simple tests that can be applied to determine whether a detailed calculation needs to be carried out. For example if:

- a. you never work more than 48 hours in any week you will not exceed the average of 48 hours per week over 17 weeks;
- b. you do not work more than 187 hours overtime in a 17-week reference period you will not exceed the average;
- c. you are absent during the reference period, but do not work overtime in the equivalent days immediately following the reference period, there is no need for a balancing addition;
- d. it is necessary to undertake a detailed calculation the starting point is Example 1 below. If there are any absences they should be treated as shown in Example 2.

Hours and Attendance

APPENDIX A (Cont'd)

4.1 The only likely complication is where there is a mixture of annual leave, some of which is entitlement under the Regulations and some not. In all cases of leave or public or privilege holidays it is the cumulative total of the accrued days first taken which determine whether or not a balancing addition is required (the first 20 days of annual leave and public/privilege holiday will obviously require a balancing addition).

Example 1

Supposing you have a standard working week of 37 hours and work 12 hours overtime for each of the first 10 weeks of the 17-week reference period. There is no leave or other absence during the reference period.

The total hours worked are 17 weeks of 37 hours and 10 weeks of 12 hours of overtime:

$$(17 \times 37) + (10 \times 12) = 749$$

Therefore an average working time (total hours divided by number of weeks) is:

$$\frac{749}{17} = 44.1 \text{ hours per week}$$

Example 2

If your employer wants you to work 9 weeks at 55 hours per week and then 37 hours per week for the remaining 8 weeks of the reference period this would be within the limit as shown below:

$$\frac{\text{A } (9 \times 55) + (8 \times 37)}{\text{C } 17} = 46.5 \text{ hours per week}$$

However, if you were absent for two weeks (sick absence, statutory holiday, or similar) in the last eight weeks of the reference period, then the average would be distorted:

$$\frac{\text{A } (9 \times 55) + (6 \times 37) = 717}{\text{C } 17} = 42.2 \text{ hours per week}$$

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APPENDIX A (Cont'd)

The average should therefore be calculated as follows:

$$A = (9 \times 55) + (6 \times 37) = 717 \quad B = (2 \times 37) = 74$$

$$A + B = 791$$

$$\frac{A + B}{C} = \frac{791}{17} = 46.5 \text{ hours per week}$$

However, if you worked 58 hours a week in the 2 weeks immediately following the reference period the limit would be exceeded as shown below:

$$A = (9 \times 55) + (6 \times 37) = 717 \quad B = (2 \times 58) = 116$$

$$A + B = 833$$

$$\frac{A + B}{C} = \frac{833}{17} = 49 \text{ hours per week}$$

Example 3

If you have a standard working week of 37 hours (7.4 hours per day) and work overtime of 8 hours per week for the first 12 weeks of a 17-week reference period and 4 days annual leave is taken during the reference period, then the total hours worked are:

16 weeks at 37 hours per week and 1 day at 7.4 hours per day plus 12 weeks of 8 hours overtime.

$$(16 \text{ weeks} \times 37) + (1 \text{ day} \times 7.4) + 12 \text{ weeks} \times 8 \text{ hours} = 695.4$$

but to this must be added an adjustment to take account of the 4 days annual leave.

So the actual hours worked in the four days immediately following the reference period are added to the total.

$$4 \times 7.4 = 29.6$$

Therefore the average (total hours worked by number of weeks) is:

$$\frac{(695.4 + 29.6)}{17} = 42.6 \text{ hours per week}$$

Flexible Working Time - Code of Practice

1 Introduction

1.1 This Code of Practice, agreed between the Management and Trade Union Sides of the Central Whitley Council, offers guidance on Flexible Working Time (FWT) in the Northern Ireland Civil Service.

1.2 The Code of Practice does not cover every eventuality and further guidance may be had from Departmental HR who in turn may seek advice from Corporate HR.

1.3 Section 5.1 of this Annex provides that all FWT schemes must be agreed with the Departmental Trade Union Side. Each scheme must be designed with the conditions of the Department or office in mind and therefore there must be scope for variation between schemes. However, certain elements of FWT have been agreed centrally and every scheme should contain these in other words:

- a.** the accounting period of four weeks;
- b.** minimum lunch break of 30 minutes;
- c.** carry over of credit of three standard days (that is 22 hours 12 minutes if you work normal 5-day week office hours);
- d.** carry over of debit of two standard days (that is 14 hours 48 minutes for staff working normal 5-day week office hours);
- e.** credit leave of up to three days in any one accounting period which may be taken as half or full days.

1.4 Credit leave of half or full day's duration and absences within core time, must be authorised as for annual leave.

1.5 Flexible Working Time is now a well-established part of many Civil Servants' working lives. Both sides of the Central Whitley Council would like FWT Schemes based on this booklet to be extended to as many Civil Servants and work places as possible.

2 Basic Principles of Flexible Working Time

2.1 The main purpose of FWT is to provide a more flexible system of attendance for staff. The number of hours which you work on FWT is the same overall as the time put in by your non-FWT colleagues. The difference lies in the considerable scope which you have on FWT to vary your times of arrival and departure from work, to vary the length and timing of your lunch break and to take time off if you work extra hours. There is, however, a guiding and over-riding principle that this flexibility should be achieved without adverse effect on the overall efficiency of Departments or on your service to the public.

2.2 Since, over a period, on FWT you work the same number of hours for your grade and location as non-FWT staff, your pay is not affected by the FWT arrangements. Similarly, on other conditions of service, if you are on FWT you should be in no more or less favourable position than other staff. Privileges, arrangements and agreements, which existed before the introduction of FWT should continue to apply.

3 Flexible Working Time - an Outline

The Day

3.2 In order to ensure that there are periods in each day during which staff can communicate with each other, with other Departments and with the public, several hours each day are designated as the coretime. Coretime is the essential part of the day during which you have to be present, unless you have permission to be away.

3.3 In many offices, however, there is no reason why all the staff should arrive and leave together, and there is time at the beginning and end of each working day when your absence is possible. These periods are called the flexible bands. You are free to arrive for work in the morning flexible band and leave for home during the afternoon flexible band subject only to the need to maintain adequate staffing during normal office hours. The total time for which an office is open for work is called the bandwidth.

3.4 The flexible lunch break in the middle of the day enables you to vary (within limits) the length and timing of your lunch breaks, subject only to operational requirements like the need to maintain adequate staffing in the middle of the day.

The Accounting Period

3.5 You would not be able to complete your conditioned hours by working during coretime alone. The balance between coretime working and conditioned hours is made up by attendance during the flexible bands. Hours of attendance are recorded and at the end of each accounting period there is a reconciliation of the hours recorded with conditioned hours net of lunch breaks. Within limits, you can carry over any excess or deficit in the hours recorded compared with condition hours.

3.6 There may be occasions during the accounting period when your record needs to be adjusted by a credit or debit. For example, if you are on annual leave or absent sick 'credit' must be given for the time you were away, or time may need to be deducted from the record to compensate for hours incorrectly recorded. Credits and debits are authorised by management and are taken into account during reconciliation to determine the carry over.

3.7 Credits and debits often need to be given for periods of whole or half days. The standard day (which, if you normally work a 5-day week, is the net equivalent of one-fifth of weekly conditioned hours) is used for this purpose. Standard hours (which are calculated on the same basis) can serve as a useful comparison with hours actually worked and recorded to date, so that you can work out at any time during the Accounting Period whether you have time in hand or time to make up.

3.7 Since, over a period of FWT, you can accumulate more than the normal conditioned hours of work, you can take time off - in whole or half days if you wish - to use up the excess hours which you have worked. This 'flexi' leave may also be taken in anticipation of extra hours to be worked later. Flexi leave is separate from annual leave.

4 Definitions

General

4.1 This Section defines more precisely, and gives guidance about, the terms which were used in the previous paragraphs to describe the general way in which FWT operates. Where appropriate, the following definitions include the centrally agreed elements which must be adopted as part of any FWT scheme. Section 5.2 indicates the scope which there is for variations in FWT arrangements.

Hours and Attendance

ANNEX 2 (Cont'd)

Accounting Period

4.2 The accounting period is four weeks. If you join a flexi-scheme during an accounting period you will simply record flexi-time for the remainder of the period.

4.3 At the end of the accounting period, there is a reconciliation between hours recorded and standard hours. There can be a carry over to the next accounting period of excess or deficit hours, up to an agreed maximum (see section 4.6).

Bandwidth

4.4 The Bandwidth is the times within which the office is open for work - normally 8 am - 6 pm. The total bandwidth should normally be a minimum of 10 hours. Very exceptionally it can be longer or shorter by agreement between a Department and its Departmental Trade Union Side, subject to a minimum of 9 hours and a maximum of 11 hours.

4.5 The need to save fuel and to limit expenditure on heating and lighting is obvious. Central Procurement Directorate, Department of Finance and Personnel, will not normally provide full heating for more than 9 hours a day. This will be adequate for most offices, since they will be warm enough to use in the 10th hour, in other words after the heat has been switched off. Where under local agreement, the bandwidth is 11 hours, Premises Officers should ask Central Procurement Directorate to provide heating for an extra hour. All requests that are fair and reasonable will be given consideration, but the reasons for having an 11 hour bandwidth rather than 10 hours will have to be strong in order to justify the extra cost of lighting and heating. Extra heating will, of course, be provided for overtime under existing arrangements.

Carry Over

4.6 Carry over is the arrangement to take forward from one accounting period to the next the excess or deficit in the total hours recorded (that is the time worked, credits and debits) compared with the total standard hours for the accounting period.

4.7 The maximum carry over of deficit hours is the equivalent of 2 standard days (that is 14 hours 48 minutes if you work normal 5-day week 'office' hours). The maximum carry over of excess hours is the equivalent of 3 standard days (that is 22 hours 12 minutes if you work normal 5-day week office hours).

Hours and Attendance

ANNEX 2 (Cont'd)

4.8 You may not normally carry forward more than the maximum deficit. Any greater deficit than the maximum is in breach of the scheme and this can lead to disciplinary action (which may include stopping of pay for the excess deficit). However, it may be unavoidable that you are prevented from reducing your deficit balance to the maximum allowed (for example, if you are absent due to ill-health towards the end of the accounting period). Such occurrences should be rare, bearing in mind that you are credited with the standard hours for the day during periods of sick leave. Where you are prevented from reducing a deficit balance to the maximum allowed because of circumstances which you could not anticipate or avoid, you should be allowed to carry the extra deficit forward.

4.9 Any excess credit above the maximum is normally lost. But where you are prevented by the needs of the office from reducing your credit balance to the maximum you should normally be allowed to carry the excess into the next accounting period. This facility will only be available where there is clear evidence that you have been specifically prevented by management from taking flexi leave. Similarly, if you are prevented from reducing your credit balance to the maximum because of sick absence you should normally also be allowed to carry the excess into the next accounting period.

4.10 When the carry over of greater deficit or excess than the maximum is authorised, there should be a clear understanding that the deficit or excess should be brought within normal limits as soon as reasonably possible. Unless there are exceptional circumstances the normal limits should apply again at the end of the next accounting period.

4.11 You are discouraged from remaining in continuous substantial deficit for a prolonged period.

Coretime

4.12 Coretime is the essential part of the day during which all staff should be present unless their absence is authorised by management. The coretime should normally be 4 hours (for example 10 am - 12 noon and 2 pm – 4 pm or 10 am - 12.30 pm and 2 pm - 3.30 pm), but in exceptional circumstances coretime may be extended by agreement with the Departmental Trade Union Side.

Time Allowed for Authorised Absences

4.13 For authorised absences (other than flexi leave) time is credited to your record of hours attended.

Hours and Attendance

ANNEX 2 (Cont'd)

4.14 If you are FWT staff you should not be in an any less favourable position than non-FWT staff in relation to time off for casual absences. Time off should still be allowed for visits to the doctor, dentist, hospital, optician, and the like. You should, where possible, arrange appointments for the beginning or end of the working day. Such absences, together with sick absence and absence on annual leave, special leave, detached duty, training courses, and the like should attract a credit (hours attributable) to the record. Similarly, arrangements should be made to give credits for unavoidable delays in arriving at work due to transport disruption and other exceptional circumstances, and also for early departures for the same reasons. FWT arrangements should not inhibit managers' ability to use their discretion to grant credits for other occasional or casual absences. Such credit can be refused if it is felt that the facility is being abused or used to an unacceptable level.

4.15 Absence from work with appropriate credit, or special leave for industrial relations activities should be allowed to you if you are working flexible hours in the same way as for non-FWT staff, in accordance with the Facilities Agreements. If you are working flexible hours you may also receive the appropriate credit for any other casual absences which have been or may from time-to-time settled by the Department, or locally for Trade Union Side/union activities, in the interests of good industrial relations. Similarly, if you are a Safety Representative you have statutory rights to local absence from work.

4.16 The credit for a whole day's approved absence should be the standard day, and the credit for a complete morning's or afternoon's absence should be half the standard day. It is suggested that other credits for unavoidable absence if less than a day should be agreed between yourself and your line manager, subject to any relevant departmental staff rules and should reflect the time which you would have recorded if the absence had not been necessary. To avoid excessive administrative effort, no account should be taken of absences of less than 10 minutes.

4.17 When agreeing the credit to be given for authorised absences, line managers will take into account the time at which you normally report for duty. The line manager may use discretion when the normal time varies over a narrow range. Where there is no recognisable pattern allowances should be calculated on the normal starting time for the branch.

Hours and Attendance

ANNEX 2 (Cont'd)

Flexi Leave

4.18 Flexi leave is time taken off:

- a. in lieu of excess hours attended (in the previous or current accounting period); and/or
- b. in anticipation of hours which must be made up later.

4.19 Flexi leave may be allowed up to a limit of three days in any one accounting period and may be taken as half or full days. Flexi leave of a half or full day's duration, and absences within coretime, must be authorised as for annual leave.

Half-Day Leave

4.20 The only restriction on the timing of half-day leave is that the leave period should not impinge on more than one core period. Thus after a morning's leave you may arrive at the office at any time during the flexible lunch break (usually 12 noon - 2 pm) and when taking an afternoon off you may depart at any time in the same period. There is no requirement to have a lunch break when taking a half-day's leave. For flexi leave no entry in the FWT record is made other than the hours actually attended; for a half-day's annual leave half a standard day should be credited in addition to the hours actually attended. Credit for a half-day's leave is 3 hours 45 minutes.

Debit

4.21 Time may be debited from your record of hours attended to compensate for time wrongly credited occurring, for example, when you forget to record your departure, such as in a mechanised system.

Flexible Bands

4.22 Flexible bands are the periods before and after coretime during which you are free to arrive for work in the morning and leave for home in the afternoon, subject only to the need to maintain adequate staffing during normal office hours.

Example:

	(8 am -10 am) Flexible Band
	(10 am -12 noon) Coretime
Bandwidth	(12 noon - 2 pm) Flexible Lunch Break
	(2 pm – 4 pm) Coretime
	(4 pm – 6 pm) Flexible Band

Flexible Lunch Break

4.23 The lunch break must be a minimum of 30 mins and may be up to a maximum of two hours.

4.24 In certain circumstances, particularly where offices are open to the public it may be necessary to ensure adequate cover and total flexibility in the times at which staff take their lunch breaks may not be feasible. Nevertheless, every effort should be made to avoid placing any more restrictions on the timing and length of your lunch breaks than is operationally necessary. If, on occasion, you want to extend your lunch break by seeking prior approval for absence in coretime, that approval should not be withheld unreasonably.

Reconciliation

4.25 The analogy is with reconciling a bank account, to see what balance is carried forward. Recorded hours are adjusted to take account of debits and credits and then compared with the total standard hours for the accounting period. The 'balance' is the carry over.

Standard Day and Standard Hours

4.26 If you normally work a 5-day week, the standard day is one fifth of the weekly conditioned hours less lunch breaks (totalling five hours). For example, for grades conditioned to 'office hours' of 42 gross per week, the standard day is 7 hours 24 minutes. If you have a different length of working week, or are in a grade with different conditioned hours, the calculations should be adjusted accordingly.

4.27 Standard hours calculated in this way are used during, or at the end of, the accounting period as a basis of comparison with hours actually recorded. At the end of the accounting period, the reconciliation is between hours recorded and the total standard hours for the period.

Normal Working Day

4.28 The normal working day is defined as the hours you would have to work if no flexi-scheme was in operation. Most buildings have standard starting and finishing times set and these should be used by all staff not availing of the flexi-scheme. Where you have had access to flexi-hours withdrawn, you must conform to the agreed starting and finishing times for the building. However, Departments may vary the times to a limited extent in individual cases where withdrawal of flexi-hours could lead to hardship, such as where travelling difficulties are involved.

5 Flexible Working Time (FWT) Schemes

General

5.1 Any flexible working time scheme must be agreed with the Departmental Trade Union Side. Where it is not feasible to introduce FWT fully in particular locations, agreement may be reached with the Departmental Trade Union Side to introduce a FWT scheme on a full or modified basis for selected groups or grades. Similarly, provision should be made in new schemes for you if you wish to continue with your previous pattern of attendance. In such cases, you will not have to change your existing method, if any, of recording attendance.

5.2 If you are part-time staff you may be included in FWT schemes on a pro-rata basis according to your conditioned hours, but the precise arrangements will depend on local circumstances and need to be worked out at the local level.

Variations and Flexibility

5.3 Ideally, all staff in one office/location should be covered by the same FWT arrangements.

5.4 Sometimes this may not be possible because of particular work processes or patterns; the need to have certain personnel present at particular times; the need to maintain supervision because of the nature of the work or for health and safety purposes; the need to maintain a service to the public, and so on. Nevertheless the FWT guidelines afford considerable scope for variation to suit the particular circumstances where one standard scheme for all staff is not appropriate. For example, coretimes may be set for an office as a whole, or on a section, group or individual basis; different coretimes and flexible bands may be set for different days of the week or weeks in the accounting period; a wider lunch band may be adopted within which you can take your lunch break so that absences from the office may be staggered; and informal rosters can be worked out to ensure essential cover during the lunch band and flexible bands. Such variations should only be introduced where they are operationally necessary, and the aim should be to maintain so far as possible, a comparable degree of flexibility in attendance as in a standard scheme.

5.5 If you avail yourself of FWT by starting earlier than the normal starting time or leaving later than the normal finishing time you should inform your supervisor if you consider that you have not enough work for the period in question.

Abuse

5.6 The operation and control of FWT schemes should normally rest with local management. The success of the scheme will depend largely on the relations between staff and their line managers. Nevertheless, any system of time recording can be abused if an individual is sufficiently enterprising and insensitive to the views of colleagues. Fortunately such individuals are rare, but it is only fair to everybody else that line managers should examine individual FWT records and ensure by frequent checks at irregular intervals that the scheme is not being abused. In each branch, flexi-sheets must be held where they are easily accessible to line managers. Flexi-sheets should be completed by you in the morning and afternoon on starting and finishing work.

5.7 Since abuse of FWT is a breach of the scheme, the offender's participation in the scheme may be suspended temporarily or indefinitely for persistent or serious abuse. This will be made clear, particularly if you are newly-recruited staff who have joined an office already working FWT; and the normal times of arrival and departure (which would apply if your participation in FWT was suspended) will be specified in staff regulations or local staff notices. Whether and what disciplinary action should be taken if there is abuse depends, of course, very much on the circumstances of each individual case.

Time Recording

5.8 It will be quite clear that an essential part of any FWT scheme is the accurate recording of the hours people actually work. The method of time recording is by Departmental or local agreement, and may operate on mechanical, electronic or manual methods of recording. Mechanical or electronic methods will record times precisely; where manual methods are used times should be recorded to the nearest five minutes.

Record Keeping

5.9 Paperwork should be kept to a minimum and records need not be kept for longer than three months from the end of the accounting period to which they refer, unless used to monitor compliance with the Working Time Regulations, in which case retention until after each 17-week reference period will be necessary.

6 Flexible Working Time and Certain Conditions of Service

General

6.1 It is one of the basic principles of FWT that it should not place you in any more or less favourable position than non-FWT staff in relation to your conditions of service. However, FWT arrangements can sometimes give rise to misunderstandings in this respect, and the application of certain conditions of service to staff who work FWT is therefore explained below.

Overtime, Discretionary Payments for Excess Hours Worked and Other Premium Payments

6.2 There is a clear distinction between extra hours worked by individuals on FWT to suit themselves, as part of the normal FWT arrangements, and additional attendance outside coretime which may attract overtime or other premium payments or time off in lieu, where appropriate. It is a general rule that all overtime for which payment is to be made must be authorised, and that claims for overtime, discretionary payments for excess hours worked or other premium payments must be properly supported by a record of hours worked. Overtime if you are on FWT must therefore be authorised and supervised in the normal way, and work for which overtime, discretionary payments for excess hours working or other premium payment is being claimed should be recorded completely separately from FWT. Before starting to work overtime, you must record the time at which normal working ended.

6.3 It follows that:

- a.** hours credited to the FWT total may not attract payment of overtime, discretionary payments for excess hours working, travel time outside office hours, and similar as an alternative to flexi leave; and
- b.** extra attendance which is authorised as overtime may not be added to the FWT total, whether or not such attendance qualifies for additional payment see sections 3 and 7 of (policy 8.08 Overtime Pay)

6.4 Because overtime is worked at the request of management, and is recorded separately from FWT, it follows that you are able to work overtime and still accumulate the number of debit hours on your FWT record up to the normal limit.

Detached Duty

3.2 In accordance with the HR Handbook (see section 4.1 of the policy 3.11 Hours and Attendance) if you are on detached duty you should be conditioned to the hours of the office to which you are posted (which may or may not have FWT arrangements).

Working Away from the Office

3.3 Where you are travelling direct from your home to an assignment, without calling at the office, your starting/finishing time (within the agreed scheme bandwidths) should be calculated as follows:

- a. If the office lies on your route, your starting time is the time at which you pass the office.
- b. If the assignment lies in the opposite direction to that in which you travel from your home to the office, your starting time is the time at which you leave home.
- c. If the assignment lies on your route to the office, your starting time is the time at which you arrive at the assignment.
- d. In circumstances other than those covered in **a.**, **b.** or **c.** your notional starting time is calculated by adding the duration of your normal home-to-office journey to the time at which you leave home (for example – suppose your office is in central Belfast and it normally takes you 30 minutes to reach it from your home in Lisburn. If you left home at 8.30 am to travel direct to an assignment in Ballymena, arriving at 9.45 am, your notional starting time would be 8.30 am plus 30 minutes which is 9 am).

3.4 Finishing times will be similarly calculated.

Travelling Time and Attendance at Training Courses and the like

3.5 Sections 4.1 – 4.3 of the policy 8.13 Travelling Time states that for the purpose of calculating the travelling time of staff attending internal and short full-time and part-time external courses, ‘officers may be considered to have worked their full hours provided that the hours of the course are not more than one hour less per day than their conditioned hours. This applies equally to FWT and non-FWT staff and a day’s attendance at such a course should attract a Standard Day’s credit to the FWT record.

FWT Credit/Debit on Leaving the Service

3.6 On receipt of notification from you if you are working FWT that you intend to leave the Service, management must inform you that a nil balance of hours should be achieved by the last working day.

3.7 Where exceptionally this balance has not been achieved, any debit balance should firstly be offset against any outstanding annual leave and if this is not possible final payment must be adjusted accordingly, in other words by a deduction made for the debit balance of hours. Similarly, an addition will be made for excess balance of hours. Early notice should be given where a nil balance will not be achieved. Should you die whilst in debit in flexi-time, the requirement to recover an equivalent cash amount should be waived.

3.8 In the case of late notified debit balances it may be necessary for issue of final pay to be deferred. Where credit balances are notified late final pay will be issued as originally calculated, with a balancing payment being issued subsequently.

Request for Flexible Working Under the Employment (Northern Ireland) Order 2002

1..General

1.1 Legislation introducing specific rights to help employees balance their family and employment responsibilities came into effect on 6 April 2003 under the Employment (Northern Ireland) Order 2002.

1.2 If you meet the criteria specified at Section 11.4 of the preceding Policy and wish to request flexible working you must apply in accordance with the following procedures.

2 Information Application Should Contain

2.1 Before making an application you should carefully consider the most appropriate working pattern for your needs and the financial implications which might arise should the new working pattern lead to a reduction in salary.

2.2 The application must:

- a. specify that the request is made under the Order; detailing the new working pattern applied for and state the proposed effective date;
- b. describe how the proposed change would impact on your own area of work and offer suggestions as to how such issues could be dealt with;
- c. explain how the conditions relating to the relationship with the child are met;
- d. other relevant detail, such as how the alternative working pattern is likely to benefit family life, may also be included.

3 Procedures to be Followed when Considering Application

Stage 1

3.1 The Head of Branch will consider if it is possible to facilitate the application in consultation with Departmental HR and if so will notify you. Within 28 days of the date of the application, HRConnect will formally confirm the change in employment conditions and the commencement date of the new working pattern.

Stage 2

3.2 If the application cannot be accommodated within your branch or immediate business area the Head of Branch must, within 28 days of receipt of the application meet you to discuss possible alternative working patterns. If you so desire, you may be accompanied at the meeting by a colleague (who may be a Trade Union representative) employed by your current Department. If an alternative working pattern can be agreed then the procedures as outlined at Stage 1 should be followed.

Stage 3

3.3 In the event of an alternative working pattern not being agreed then the Head of Branch will notify the Departmental HR as early as possible. Departmental HR will then try to accommodate you within another branch of the Department. Where you are a member of staff of an Agency, and the Agency is unable to identify a suitable alternative post, Departmental HR should be consulted to ascertain whether you can be accommodated within the core Department.

3.4 If you can be accommodated within another branch, then the Head of the importing Branch should arrange to meet you within 28 days from the original receipt of the application by your current Head of Branch to agree the new working arrangements.

3.5 If the proposed new arrangements are acceptable to both parties, then HRConnect will, within 14 days of the meeting, formally notify the applicant of the arrangements for starting their new working pattern. If the proposed new working arrangements are not acceptable to the applicant, the request will be treated as being unsuccessful.

Stage 4

3.6 In the event of Departmental HR not being able to accommodate you within another branch in the Department you must be notified by your current Head of Branch within 14 days of the meeting indicated at Stage 2. The notification must include an explanation as to why the request cannot be met.

3.7 Under the Order one or more of the following reasons must exist for the application to be refused:

- a. the burden of additional costs;
- b. detrimental effect on ability to meet customer demand;
- c. inability to reorganise work among existing staff;

- d.** inability to recruit additional staff;
- e.** detrimental impact on quality;
- f.** detrimental impact on performance;
- g.** insufficiency of work during the period you propose to work;
- h.** planned structural changes; and
- i.** such other grounds as the Department for Employment and Learning may specify by regulations.

4 Extensions to Timescales

4.1 In certain circumstances the normal 28-day consideration period may be extended to a maximum of 56 days. If the Head of Branch is on annual leave or sick absence on the day the application is received (and no-one else is qualified to consider the application) the 28-day period will commence on the day he/she returns to work provided this is not later than 28 days after receipt of the application.

4.2 In the event of the Head of Branch not returning to work within 28 days of receipt of the application a designated officer must commence processing the application and should notify you of the outcome within a further 28 days.

4.3 If it is known at the outset that the Head of Branch will not return to work within 28 days of receipt of the application, then a designated officer should commence procedures immediately.

4.4 In addition, you and Departmental HR may agree to an extension to any of the timescales. Such agreement must be recorded in writing by the Department and endorsed by both parties. It must specify the period to which the extension relates and the date on which the extension is to end. A copy must be given to you.

5 Appeals

5.1 Where a request cannot be facilitated you may appeal the decision in writing to HRConnect within 14 days of receipt of the notification of refusal. Where Agency Personnel have referred the request to Departmental HR, joint consideration of the appeal should be undertaken.

Hours and Attendance

ANNEX 3 (Cont'd)

5.2 If the appeal is upheld, you will be notified by HRConnect within 14 days of receipt of the appeal of the change in contract of employment and the date of commencement of the new working pattern.

5.3 Where an appeal is not upheld, HRConnect will arrange a meeting to take place within 14 days of receipt of the appeal with you and, if you wish, an accompanying colleague (who may be a Trade Union representative, employed by the same Department) to discuss the appeal. If there is likely to be an inordinate delay between the date of the written appeal being received and the proposed meeting, you should be notified of its receipt and given an explanation for any delay.

5.4 Within 14 days of the meeting referred to at section 5.3 above, HRConnect will notify in writing, both you and the Head of Branch of Departmental HR's decision.

6 Referral to an Industrial Tribunal

6.1 You can make a complaint to an Industrial Tribunal where you believe that:

- a. Departmental HR has failed to follow the procedures properly;
- b. the decision taken by Departmental HR was based on incorrect facts.

Term-Time Working

1 Introduction

1.1 The following section outlines the NICS term-time working policy. Although term-time working is generally viewed as a form of part-time working that promotes work-life balance by enabling parents with school aged children to spend more time with their children over the school holidays, all NICS staff, not only parents, may apply for term-time working under this policy.

1.2 You should note that this policy does not in any way affect your right to apply for term-time working under the Flexible Working provisions of the Employment Order (NI) 2002.

2 General Principles

2.1 As term-time working is a form of part-time working, the same general principles for implementing the policy apply – in other words Heads of Branches should:

- a. aim to accommodate requests rather than look for ways of turning them down, and
- b. ensure that, while it is recognised that there may be circumstances when it is not possible to approve an application, such decisions are justifiable and are based on sound business reasons (see section 1.7 of Annex 4.1).

2.2 Detailed guidelines, for use by Heads of Branches when assessing applications for term-time working, can be found in Annex 4.1.

2.3 The decision whether or not to approve an application for term-time working will be based solely on business need. That means that approval should be granted provided there is no adverse impact on service delivery.

2.4 You should be aware that, if the number of applications exceeds the number that can be accommodated, but there is capacity for some term-time working, Heads of Branches will prioritise applications on the basis of the criteria set out in Annex 4.1, sections 1.4 and 1.5. Where it is necessary to apply these criteria, Heads of Branches should liaise with local Trade Union Side.

Hours and Attendance

ANNEX 4 (Cont'd)

2.5 You may apply to have any school holiday period covered by term-time working and must outline in your application the periods during which you wish to be absent from work (in blocks of complete weeks). An absence may start on any day of the working week. Only in exceptional circumstances can the dates of absence be changed after the term-time working arrangement has been formally accepted.

2.6 If you wish to use annual/flexi leave in conjunction with a period of term-time working absence you will be required to do so in a block before, and/or after the period of absence. Requests to use annual/flexi leave in this way should be outlined in your application as detailed in the Job Related Data Change User Guide. Annual/flexi leave must not be used to bridge periods of term-time working absence.

2.7 Term-time working applications will be approved for one year only and if you avail yourself of term-time working you will have your terms and conditions of employment revised for one year, from 1 April to 31 March. Should you wish to avail yourself of term-time working for more than one year, you must reapply each year.

2.8 You may also apply for a variation to your normal working pattern for the duration of the term-time working year, for example if you normally work five full days per week you may wish to work five mornings for the duration of the term-time working arrangement. You should note, however, that, if this request is approved, the change will be temporary and will be effective for one year only. If you would like such a variation to apply on a permanent basis you should follow the normal part-time working application procedure as detailed in the Job Related Data Change User Guide in the HR Handbook. It should also be noted that requests for changes to the normal work pattern, under this section, will only be considered when the application for term-time working can be approved.

3 Calculation and Payment of Salary

3.1 If your term-time working applications are approved you will have your basic salary reduced in accordance with the number of weeks absence and paid in 12 monthly instalments.

4 Pensions

4.1 If you are a member of the Principal Civil Service Pension Scheme (NI) (PCSPS (NI)) you will continue to have your employment covered under the scheme for superannuation purposes.

Hours and Attendance

ANNEX 4 (Cont'd)

4.2 It is important to note, however, that working part-time affects the benefits payable to you under the PCSPS (NI). Generally speaking, the service which counts toward pension benefits accrues on the basis of the years and days actually worked. For example, if you work 10 months out of 12, you will build up 10/12th of a year's reckonable service in a calendar year for pension purposes. The same applies to the service which would count for early retirement benefits, but any compensation in the event of redundancy would be based on the salary you actually receive rather than the full-time rate of pay.

4.3 You should also be aware that where, in the event of death-in-service, there is part-time service in the last three years of reckonable service, any death benefit lump sum will be calculated by reference to the actual pay and pensionable emoluments in whichever of the last three years of reckonable service gives the highest figure, rather than by reference to the full-time rate of pay for the grade. Any long-term widow's/widower's/children's pensions payable will be calculated using the full-time rate of pensionable pay for the grade and the actual reckonable service accrued. Any short-term rate payable will be based on the amount of actual pay received.

4.4 You may contact Civil Service Pensions for detailed information on how any proposed term time working arrangement would affect your pension.

5 Annual Leave and Public and Privilege Holidays

5.1 As with any other application for part-time working, you should be aware that a successful application for term-time working will result in a pro-rata reduction in your annual leave allowance and public and privilege holiday entitlement for the period covered by the arrangement.

6 Sick Absence

6.1 The normal provisions for paid sick absence will continue to apply when you are unable to attend work due to illness and any such payments will be calculated on the pro rata salary. You will not be eligible for occupational sick pay during the period(s) when you are not due to attend work.

7 Maternity Leave and Pay

7.1 During a term-time working arrangement, you will continue to be entitled to paid maternity leave if you satisfy the qualifying conditions but should note that payments will be calculated on the pro rata salary. If you commence maternity leave during term-time working you retain your normal statutory entitlements.

8 Application Process - Timetable

8.1 The following is a list of the key dates in the application process for term-time working.

- a. December** – Departmental HR will alert all staff to the availability of term-time working and provide advice on how to access guidance and application forms. The closing date for applications will be the first working Friday in January.
- b. By first working Friday in January** – Completed applications must have been sent to the Head of Branch for consideration.
- c. Mid February** – The Head of Branch will notify you, as the applicant, of their decision in writing; in other words whether or not the application has been approved.
- d. End February** – HRConnect will write to you if you are a successful applicant outlining your revised terms and conditions of service if you proceed with the term-time working arrangement (see sample letter at Annex 4.2).
- e. Mid March** – You will advise HRConnect, whether you wish to accept the revised terms and conditions outlined in the confirmation letter and proceed with the term-time working arrangement.

8.2 If as a Head of Branch you wish to apply for term-time working, your application form should be submitted to your line manager for consideration. Throughout the remainder of this section, if you are at Head of Branch level or above and are applying for term-time working, you should read “line manager” in place of “Head of Branch”.

9 Approved Applications

9.1 When an application for term-time working has been approved, HRConnect will notify you in writing by mid February. The Head of Branch will have approved the application. HRConnect will then issue a confirmation letter to you outlining your revised terms and conditions of employment (see Annex 4.2).

Hours and Attendance

ANNEX 4 (Cont'd)

9.2 On receipt of the confirmation letter from HRConnect you must consider the revised terms and conditions of employment as outlined and return the attached reply slip to HRConnect by mid March.

10 Refused Applications

10.1 When an application for term-time working has been refused, HRConnect also inform you in writing by mid February. The Head of Branch will give a full explanation why the application has been refused, and HRConnect will send a copy of the form to both you and Departmental HR.

11 Unpaid Special Leave

11.1 If you have had an application for term-time working refused, you are not permitted to make an application for unpaid special leave to cover the same period, or part of the same period, unless you can show that there has been a change in circumstances. You should be aware, however, that any decision to refuse an application for term-time working will have been based on the needs of the business and it is likely that an application for unpaid special leave will be refused for the same reason.

12 Right of Appeal

12.1 You may appeal against a decision to refuse an application for term-time working by following the Grievance procedure as outlined in Grievance User Guide.

12.2 You should be aware that if your appeal is successful and your Department does not have adequate opportunity to amend your salary from April, then any overpayments made from April will be automatically recovered from salary at the next available opportunity.

13 Transfer to Another Branch

13.1 Where you have requested a transfer, and wish to retain an approved term-time working arrangement for the remainder of the one-year period, the importing branch will try, as far as reasonably possible, to ensure that the term-time working arrangement can continue. Only in exceptional circumstances, which must be linked to business need, would a request be denied.

Hours and Attendance

ANNEX 4 (Cont'd)

13.2 If you would consider terminating a term-time working arrangement in order to secure a suitable transfer you should ensure that you bring this information to the attention of your Departmental HR when requesting a transfer.

14 Termination of Term-Time Working Arrangements

14.1 If your application for term-time working has been successful you are expected to remain as a term-time worker for the period 1 April to 31 March. Should you wish to terminate the term-time working arrangement before you have taken the agreed period(s) of absence, you should apply to your Head of Branch, giving a minimum of one month's written notice. Where, for justifiable business reasons, it becomes necessary for a Department to terminate your term-time working arrangement, you must be given a minimum of one month's written notice and full reasons for the termination.

15 Other Assistance

15.1 It is recognised that many staff request term-time working to allow them to care for their children during school holidays. However, there are a number of other facilities available that are also aimed at helping you cope with caring responsibilities such as holiday play schemes, flexible working, parental leave, the temporary re-arrangement of working hours, career breaks. Managers should direct you to Welfare Services for advice on childcare provision and other care-related issues.

Guidelines for Considering Term-Time Applications

1.1 Heads of Branches should strive to accommodate as many applications as possible while at the same time ensuring that there are sufficient staff present to meet the business needs of the service. This includes not only ensuring the delivery of the service, but also that non term-time staff are able to have their reasonable annual leave requirements met during the school holiday periods.

1.2 In determining the number of applications that can be accommodated, the Head of Branch should consider the options available for covering absences. Examples of some of these are listed below:

- a. employing casual staff;
- b. deputising more junior members of staff;
- c. asking other branches if they could provide cover;
- d. asking other part-time staff if they would be prepared to work full-time over the summer months; and
- e. asking Departmental HR if there are any surplus staff who could be transferred.

1.3 If, after considering the above, the number of applications still exceeds the number that can be accommodated, but there is capacity for some term-time working, the Head of Branch should meet with staff to discuss the possibility of meeting part of each request.

1.4 If, after all of the above has been considered, demand still exceeds the number that can be accommodated, the Head of Branch will give priority to applications from the following groups, in the order stated:

- a. Staff with school-aged children aged 12 or under at the date of commencement of the term-time working arrangement, or disabled* children under 18.
- b. Staff with school-aged children aged 13 or over.

*For the purposes of these arrangements, a disabled child is a child who is entitled to a disability living allowance within the meaning of section 71 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

Hours and Attendance

ANNEX 4.1 (Cont'd)

1.5 If it is necessary to further differentiate between applications, this will be done firstly by giving preference to those staff who have not availed of term-time working previously, and finally by means of random selection.

2 Approved Applications

2.1 When an application for term-time working has been approved, the Head of Branch must complete the Term-time Working Request Form and send to HRConnect by mid February. See the Job Related Data Change User Guide.

3 Refused Applications

3.1 As stated in section 2.1 of the guidance in Annex 4, applications for term-time working should be considered on a business needs basis only. An application can be refused only where there is a clear, justifiable business reason. The business ground(s) for refusing an application must be one of those listed below:

- a.** the burden of additional costs;
- b.** detrimental effect on ability to meet customer demand;
- c.** inability to reorganise work among existing staff;
- d.** inability to recruit additional staff;
- e.** detrimental impact on quality;
- f.** detrimental impact on performance; and
- g.** planned structural changes.

3.2 When an application for term-time working has been refused, the Head of Branch must complete the Term-time Working Request Form (see user guide) giving a full explanation why the application was refused, and send a copy of the form to both you and HR Connect by mid February.