

Q1 - What is classed as working time?

'Working time' is any period during which an individual is working, is at the employer's disposal and is undertaking activities or duties related to their post.

A list can be viewed within the [Working Time Procedure](#) which helps to distinguish periods classed as working time and those as non-working time.

Q2 - As a manager, how do I know if my employees are working in excess of the weekly working time limit?

An [EMIS Portal report](#) or [Bodet Working Time report](#) can be run to provide a **rough guide** of the hours worked by employees within a section over a 52 week period, with investigation recommended where individuals show an average weekly working time total above 45 hours. Further information relating to the hours and working pattern undertaken by employees (via Bodet entries, timesheet submissions or rotas) will be required to allow a more detailed calculation to be carried out with the help of askHR where necessary. If a service wishes to gain access to the EMIS Portal report, they should contact ICT. If they wish to gain access to the Bodet Working Time report, they should contact the Business Systems team within Infrastructure Services on bodetadmin@aberdeenshire.gov.uk

NB - Head Teachers and Line Managers must also be aware of additional jobs that an employee may hold, as hours undertaken in these posts will be factored into the working time calculation, and may impact upon night work limits / rest break provisions.

Further information can be found within the [Maximum Weekly Working Time guidance](#) document.

Q3 - One of my employees has approached me to find out if they could apply for an additional post advertised outside the Council – what do I need to do?

It would need to be ensured that the work undertaken in the new post would not conflict with that of their current post, impair in any way the performance of their Council duties or involve the use of knowledge and information concerning Council business or materials, equipment or tools belonging to the Council (including self-employment).

It also needs to be ensured that the employee would not be working in excess of 48 hours per week on average without signing an opt-out and undertaking a risk assessment.

The employee will need to complete an [Employee Declaration Form](#).

Further information can be found within the [Employees with Multiple Posts guidance document](#).

Q4 - One of my employees has approached me to find out if they could apply for an additional post advertised within the Council – what do I need to do?

It needs to be ensured that the employee still receives the correct in-work, daily and weekly rest breaks as specified within the Working Time Regulations, and is not working in excess of 48 hours per week on average without signing an opt-out and undertaking a risk assessment.

The employee will need to complete an [Employee Declaration Form](#) and provide the contact details of the line manager for their new post. You will need to liaise with the new line manager to establish the total hours that would be undertaken within a week and whether the overall working pattern between the two posts allows for the required rest breaks.

Further information can be found within the [Employees with Multiple Posts guidance document](#).

Q5 - If an employee does hours under a Relief post, what are my responsibilities as a manager of the employee's main post?

A relief post is no different to any other post held by an employee and all hours worked in this post must be considered as part of the employees working time.

It needs to be ensured that the employee still receives the correct in-work, daily and weekly rest breaks as specified within the Working Time Regulations, and is not working in excess of 48 hours per week on average without signing an opt-out and undertaking a risk assessment.

The employee will need to complete an Employee Declaration Form and provide the contact details of the line manager for their relief post who you will need to liaise with to establish the types of hours and overall working pattern that could be worked between the two posts to allow for the required rest breaks.

Further information can be found within the [Employees with Multiple Posts guidance document](#).

Q6 - Does a line manager have to confirm agreement before an employee can sign an opt out?

The opt out is available for an employee to use if they choose to. However, line managers are not required to provide hours to employees who have signed an opt out, or agree to employees working in excess of their normal contractual hours, even if the employee has signed an opt out.

Where an employee holds multiple posts, the line manager of each post must be in agreement with the opt out before allowing an employee to exceed the 48 hour limit.

More information relating to the opt out can be found within the [Opt Out guidance document](#).

Q7 - I work 6 hours, 10am to 4pm on a Monday and Tuesday – would I be entitled to a break throughout the day?

This answer is dependent on whether you are a young or adult worker.

Under the Working Time Regulations young workers (those aged up to 18) should receive a rest break of at least 30 minutes (consecutive, if possible) if they work more than 4½ hours in a day. Whereas adult workers (those aged 18 and over) are entitled to an uninterrupted rest break of at least 20 minutes if they work **more than** 6 hours in a day.

Therefore if you are a young worker you would be entitled to a 30 minute break and if you are an adult worker you would not be entitled to any rest break. However, your line manager may agree to provide a rest break to allow time for refreshment - dependant on the type of work being undertaken and the practices that are present within the section. This is fully at the discretion of your line manager.

More information relating to this can be found within the [Rest Breaks guidance document](#).

Q8 - I have a post which requires employees to be constantly present and rest breaks may not be viable – what can I do?

If it is not possible to adjust working patterns to accommodate the relevant breaks for a specific group of workers e.g. due to operational requirements of the Service. The line manager may be asked to complete a Rest Break Compliance Form via the [askHR self-service portal](#), providing full and adequate justification of the reason the workers are not receiving correct breaks during their working hours each day, along with details of the specific group of workers within the workplace that are affected.

The line manager should contact senior management within the Service or askHR if further discussion or clarification is required relating to the information stated on the form, and to help establish if the type of work being undertaken will fall within a relevant exception within the Working Time Regulations. They will also help determine whether it is advisable to liaise with the Trade Unions to establish a Collective Agreement allowing the break to be modified or missed.

NB - This is not required for a one-off occurrence, where a single in-work rest break may have been missed.

Further information can be found within the [Rest Breaks guidance document](#).

Q9 - I need to incorporate sleep-in shifts within staff rotas – will only periods of disturbance count towards working time?

Under the Working Time Regulations an employee undertaking a sleep-in accrues Working Time during the whole period of the duty, not only when actively responding to client need. This is true of any employee required to be on-call at a place of work.

Therefore, the entire sleep-in shift will count as working time, which must be considered in relation to [maximum weekly working time](#) and [rest periods](#), and may be sufficient for an individual to be considered a [night worker](#).

Guidance on checking rotas for compliance in relation to rest periods can be found under the [Checking Rotas for Compliance Factsheet](#).

Q10 - An employee receives a call-out during their daily rest period. Can they start later when they are next scheduled to work so they can receive compensatory rest for this?

The regulations state that 11 consecutive hours rest should be given in each 24 hours in which work is done, although there can be a break between these hours in exceptional circumstances. Whenever a rest break is interrupted or missed completely 'compensatory rest', equivalent to the period of rest missed, should be made available. Where possible, this should be given directly after the work which incurred it, and before the employee is next expected to work. Therefore, it would be recommended that the employee starts work at 11am (or later) to ensure they receive the minimum amount of compensatory rest required.

There may be rare occasions when full compensatory rest cannot be taken before the individual is due to start work again. Where this occurs, the Service must provide appropriate protection to safeguard the worker's Health and Safety. This could include for instance reduced rest, lighter duties or additional supervision.

Further information relating to this can be found within the [Compensatory Rest guidance document](#).

Q11 - Where employees are required to accompany clients or school pupils on residential trips or long journeys - what would I need to consider?

School trips and residential stays can be difficult to manage. While employees are at work, the environment may be very different. Organising managers need to be aware of the requirements of the Working Time Directive and endeavour to provide employees with reasonable breaks while maintaining the Health and Safety of service users. Advice in regards to this should be sought from a line manager prior to the arrangement of the trip or journey.

To discuss any aspect of working time and to discuss any issues arising from employees whether in single posts, multiple posts or external posts, please contact askHR on 01467 534400 or askHR@aberdeenshire.gov.uk