

## Factsheet C20: Annual leave and working time regulations

### Statutory Annual Leave entitlement:

The current statutory annual leave entitlement is 5.6 weeks. Annual leave is a legal entitlement for all employees regardless of the number of hours worked. Employers should ensure staff take leave from their job for health and safety reasons. It is unlawful to 'roll up' holiday pay (pay holiday as a lump sum at the end of the year without ensuring that the employee takes leave from work). Providing annual leave is to give your employees a rest from work. The law is there to prevent employers from insisting that their staff get paid for their holiday rather than take it. Spreading your employee's leave across the year will ensure that there isn't too much to be taken at once.

- Every employee is entitled to 5.6 weeks paid annual leave. For part-time staff, this would be calculated as pro rata according to their working hours per week.
- Entitlement to paid annual leave begins on the first day of employment. If you use Equal Lives' Payroll service, holidays are from April to the end of March.
- Employers can set the times employees take all or some of their leave, for example a Christmas break or if they will be on holiday or going into hospital. The employer would need to give notice to the employee which should be at least twice the period of leave to be taken.
- When an employee leaves your employment, they are entitled to be paid for any untaken leave.
- You can only claim back overpayment of holiday pay if this is included within the terms and conditions of your employment.



- Bank or public holidays do not have to be given as paid leave. An employer can choose to include bank holidays as part of a worker's statutory annual leave.
- Employees must give the employer notice they want to take leave. Employers and employees can agree how and when to give notice for leave to be taken. In the absence of an agreement, the notice period an employee must give should be at least twice the period of the leave to be taken.

#### Rest breaks:

- **Rest break:** A worker is entitled to a rest break of a minimum of 20 minutes if working more than six hours. This break should be taken during the six hours and your employee must know at the outset of the break that it is to be such.
- **Daily rest:** A worker is entitled to a rest period of 11 uninterrupted hours between each working day.
- **Weekly rest:** A worker is entitled to one whole day off a week. Days off can be averaged over a two-week period, meaning workers can take two days off a fortnight. Days off are taken in addition to paid annual leave.
- **Night workers:** Normal hours of night workers must not exceed an average of eight hours for each 24 hours over a 17-week period.

To determine when someone is entitled to rest periods, you need to know what is meant by working time. This is any period an employee is actually working, at your disposal and is carrying out duties.

There are four classes of exceptions where some rules may not apply - any specific agreements (such as "compensatory rest"), special circumstances, unmeasured work (see further below), and partly unmeasured work.



## **Weekly working hours:**

Employers are obliged to take all reasonable steps to ensure that on **average** workers do not exceed 48 hours a week.

Average weekly hours are calculated by dividing the total number of working hours by the number of weeks in the 'reference' period (a rolling period of 17 weeks). Days absent from work on leave (e.g. for sickness) are excluded. The 48-hour maximum covers all employment - **If workers have other jobs, you need to include them in the calculation.**

The present legislation, allows for employees to agree and sign an **individual opt-out** in writing if the employee wishes to work more than 48 hours per week. Such agreement can be ended by the employee giving seven days notice (or up to three months if specified in the agreement). Detailed individual records, including hours actually worked, must be available for inspection by the Health and Safety inspector.

## **Live-in and unmeasured work:**

- Where Live-in carers are paid an amount per week for undertaking specific tasks but with no set hours, this can be classed as unmeasured work.
- The National Minimum Wage must still be paid to employees who do unmeasured work.
- Accommodation costs can be counted towards the National Minimum Wage, but only up to a set amount.
- People who live as part of the family and who share in the work and leisure activities of the household do not need to be paid the National Minimum Wage.
- There is an option to have a written agreement with an employee setting out the average number of hours he or she should work each day.



If you require further information or would like this factsheet in an alternative format you can contact us by calling: 01508 491210, by emailing: [info@equallives.org.uk](mailto:info@equallives.org.uk), or by writing to: Equal Lives, 15 Manor Farm Barns, Fox Road, Framingham Pigot, Norfolk, NR14 7PZ.

