

Tower Hamlets Careers Service

# Employment Rights



**June 2017**

**Backed by legislation**

This leaflet explores in detail three laws designed to protect you in the workplace. They cover:

- ❖ the right not to work excessive hours – Working Time Regulations
- ❖ the right to a minimum level of pay – National Minimum Wage/National Living Wage
- ❖ the rights of young people working before they reach the statutory school leaving age – Child Employment

We will also consider those laws that protect your rights to paid holidays from work; a clear contract of employment; health and safety at work and freedom from unfair discrimination in employment.

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## Participating in Education or Training

In England, if you don't have a full level 3 qualification (A levels, BTEC level 3 diploma, IB level 3), you must stay in some form of education or training until the end of the academic year when you turn 18.

This doesn't have to mean only staying in school, it can be:

- ❖ full-time education, e.g. at a school or college
- ❖ an apprenticeship
- ❖ full-time employment (over 20 hours a week) combined with part-time education or training

## Working Time Regulations



### ***What are the Working Time Regulations?***

Working Time Regulations, apply to most people in employment, limiting the number of hours they can work in a week to 48 for adults (18 or over) and 40 for young people (16 – 17).

### ***Does this mean that most people aren't permitted to exceed the 48 hour rule?***

No it simply means that employers cannot force you to work longer than 48 hours per week (averaged over a 17 week period). If individuals choose, they can opt out (providing they are over 18) by making a written request to their employer, but employers are not permitted to pressurise staff into doing so.

### ***Are the Working Time Regulations the same for everyone?***

No. The regulations vary according to a worker's age, job and industry.

### ***Young workers aged 16 – 17***

Young people in this age group are not allowed to work **more than 8 hours per day or 40 hours per week (including time spent in training or on day release)**. Unlike adults, these hours are not calculated as an average, they apply to each working week and young people are not permitted to opt out of the 40 hours per week rule *even if they want to*.

### ***Exceptions based on jobs***

#### ***When the 48 hour rule does not apply***

There are certain jobs where, the 48 hour rule does not apply and individuals may be expected to work longer – these include:

- ❖ managing executives (who control their own time)
- ❖ armed forces, emergency services and police
- ❖ security and surveillance officers
- ❖ domestic servants in private households
- ❖ certain categories seafarers and sea fisherman

There are other jobs where 48 hour rule applies, but the reference period over which it is calculated has been extended – examples include:

- ❖ Doctors in training where the reference period is 24 weeks
- ❖ Staff working offshore, where the reference period is 52 weeks.

### ***No opt out***

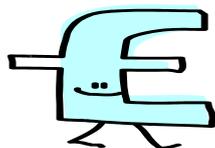
Some workers are not permitted to opt out therefore their working hours must not exceed 48 per week. They include:

- ❖ road transport workers
- ❖ workers on ships or boats
- ❖ airline staff
- ❖ security guards on vehicles carrying high value goods.

### ***Need more information?***

Visit: [www.gov.uk/maximum-weekly-working-hours](http://www.gov.uk/maximum-weekly-working-hours)

## National Living Wage - £7.50 per hour



### ***Is the National Living Wage the same for everyone?***

No, the National Living Wage only applies to people who are over the age of 25. For everyone else different minimum rates apply

#### **From April 2017**

<b>21 to 24</b>	<b>18 to 20</b>	<b>Under 18</b>	<b>Apprentice*</b>
<b>£7.05 per hour</b>	<b>£5.60 per hour</b>	<b>£4.05 per hour</b>	<b>£3.50 per hour</b>

*\* This is the rate for apprentices under 19 or those in their first year of training. Apprentices over 19 and who have past your first year, will earn the rate that applies to their age group*

### ***Who is not entitled to the National Living Wage?***

- ❖ self-employed people
- ❖ company directors
- ❖ young people on traineeships or pre-apprenticeship training or adults participating in a government employment programme
- ❖ family members of the employer living in the employer's home
- ❖ non-family members living in the employer's home who share in the work and leisure activities, are treated as one of the family and aren't charged for meals or accommodation (eg au pairs)
- ❖ workers younger than school leaving age
- ❖ higher and further education students on a work placement up to 1 year
- ❖ people on the following European Union programmes: Leonardo da Vinci, Youth in Action, Erasmus, Comenius
- ❖ people engaged on a Jobcentre Plus Work trial for 6 weeks
- ❖ members of the armed forces
- ❖ share fishermen
- ❖ prisoners
- ❖ people living and working in a religious community

### ***What about internships, voluntary work and work experience?***

Organisations can choose not to pay the National Living Wage to the following:

- ❖ students on work experience as part of their further or higher education course
- ❖ school age students on work experience
- ❖ volunteers working for a charity, voluntary organisation or a statutory body
- ❖ individuals “work shadowing” experienced staff

*Internships that require individuals to undertake work based activities in a role that closely mimics that of an employee, would seem to contravene the NLW regulations.*

## **Need more information?**

Visit: <https://www.gov.uk/national-minimum-wage-rates>

To talk to someone for advice on pay contact:

**ACAS Helpline:**

**Telephone: 0300 123 1100 or visit the website –**  
[www.acas.org.uk/helplineonline](http://www.acas.org.uk/helplineonline)

## **Child Employment – *working under the age of 16***



### ***How old does a child need to be?***

Children aged 13 and over are permitted to work ***part-time***, while those under 13 are generally not allowed to work; however there are exceptions. Children involved performance in the theatre, television or modelling are permitted to work providing they have a **Performance Licence** issued by their local authority.

### ***Are there any restrictions on child employment?***

There are national guidelines that state, children under the statutory leaving age are not allowed to work:

- ❖ without a permit from the local authority
- ❖ in factories, industrial sites or construction sites
- ❖ during school hours
- ❖ before 7am or after 7pm
- ❖ more than one hour before school
- ❖ more than 4 hours without taking a break of at least one hour
- ❖ on premises licensed for alcohol or betting
- ❖ on any job that might be harmful to their health, well-being or education
- ❖ any employment that doesn't give them a 2 week break during the school holidays in any calendar year

In addition there are rules that apply depending on whether a child is working in term time or during the school holidays.

#### **Term time restrictions**

During term time children can only work a maximum of 12 hours a week. This includes:

- ❖ maximum of 2 hours on school days and Sundays
- ❖ maximum of 5 hours on Saturdays for 13 -14 year-olds, or 8 hours for 15 -16 year-olds

#### **School holiday restrictions**

During school holidays 13 – 14 year-olds are only allowed to work a maximum of 25 hours a week. This includes:

- ❖ a maximum of 5 hours on weekdays and Saturdays
- ❖ a maximum of 2 hours on Sunday

During school holidays 15 -16 year-olds can only work a maximum of 35 hours a week. This includes:

- ❖ maximum of 8 hours on weekdays and Saturdays
- ❖ maximum of 2 hours on Sunday

In addition to the national rules, local authorities often impose their own conditions.

### ***Employing School Children in Tower Hamlets***

All young people aged 13 or over, who are of compulsory school age and are working, must by law have a work permit\*. This is the case even if they are working for their parents. Children under the age of 13 are not allowed to work unless they have a Performance Licence issued by the local authority (see above).

All applications for work permits for children are free and must be made by the employer.

Employers can be prosecuted if they:

- ❖ do not obtain a work permit for their school age employees
- ❖ employ school age children in a job they are not allowed to do
- ❖ allow school age children to work outside the hours permitted by law

***\*The Association of British Insurers has stated that unless a child has a valid work permit, they may not be included under the employer's liability insurance.***

### ***Permitted employment for children and young people in Tower Hamlets***

#### **Jobs children aged 13 and above can do**

- ❖ Light agricultural and horticultural work
- ❖ Shop work including shelf stacking
- ❖ Delivery of newspapers, journals and other printed materials (but not collecting money)
- ❖ Shampooing and sweeping up in hairdressers
- ❖ Serving tables in a café/restaurant (but not working in the commercial kitchen)
- ❖ Office work
- ❖ Car washing by hand in a private residential setting
- ❖ Working in riding stables
- ❖ Domestic work in hotels

In addition young people aged 14 and above can work with their parents on a market stall if they have a work permit.

## **Jobs children aged 13 and above can NOT do**

- ❖ Cinema, theatre, discotheque, dance hall or night club, except if the child is performing and is licensed to do so
- ❖ Factory or industrial setting
- ❖ Sell or deliver alcohol (except in sealed containers and under the supervision of a responsible adult)
- ❖ Deliver milk
- ❖ Deliver fuel oils
- ❖ In commercial kitchens such as a cafés, pubs, hotel or fish and chip shops
- ❖ Collecting or sorting refuse
- ❖ Any work that is more than three metres above ground or floor level
- ❖ In employment involving harmful exposure to physical, biological or chemical agents
- ❖ Collecting money or selling or canvassing door to door
- ❖ Work involving exposure to adult material or in situations which are for this reason otherwise unsuitable for children
- ❖ Telephone sales
- ❖ In a slaughterhouse or in that part of a butcher's shop or any other premises connected with the killing of livestock, butchery or the preparation of carcasses or meat for sale
- ❖ An attendant or assistant in a fairground or amusement arcade (where gambling takes place)
- ❖ In the personal care of residents in any residential care home or nursing home

### ***Need more information?***

Tower Hamlets Child Employment Team provides advice to employers and families on the regulations for the employment of children.

**Pupil Services  
Mulberry Place  
5 Clove Crescent  
London  
E14 2BG**

**Tel: 020 7364 5006  
Fax: 020 7364 4311**

**Email: [pupil.services@towerhamlets.gov.uk](mailto:pupil.services@towerhamlets.gov.uk)**

**Further information can also be found at: [www.gov.uk/child-employment](http://www.gov.uk/child-employment).**

## Further Legal Protection for Workers



### Statutory Paid Holiday

#### ***Are all workers entitled to paid leave?***

All workers are legally entitled to paid annual leave; the number of weeks they are due will depend on whether they work part-time or full-time. Full-time employees, working 5 days per week should receive 28 days or 5.6 weeks' worth of annual leave. Holiday entitlement for part-time employees is a proportion of the full-time allocation based on the number of days/hours worked each week.

#### ***Are Bank Holidays Included?***

An employer can choose to include Bank Holidays as part of an employee's annual leave when working out how much statutory paid leave an individual is due.

#### ***Can workers build up annual leave if they are sick or on paternity/maternity or adoption leave?***

Workers have the right to build up holiday leave while they are sick or on paternity/maternity/ adoption leave.

#### ***Need more information?***

Visit: [www.gov.uk/holiday-entitlement-rights](http://www.gov.uk/holiday-entitlement-rights)

### Employment Contracts

#### ***What is an employment contract?***

An employment contract sets out an individual's conditions of employment as well as their rights, responsibilities and duties.

#### ***When does the contract begin?***

As soon as you accept a job from an employer you have entered into an employment contract. An employment contract does not have to be written down.

### ***Does the employer have to put anything in writing?***

An employer must provide you with a written statement of employment particulars, within 2 months of the start of your employment. The written statement can be made up of more than one document but, as a minimum it must include:

- ❖ the business's name
- ❖ the employee's name, job title or a description of work and start date
- ❖ if a previous job counts towards a period of continuous employment, the date the period started
- ❖ how much and how often an employee will be paid
- ❖ hours of work (and if employees will have to work Sundays, nights or overtime)
- ❖ holiday entitlement (and if that includes public holidays)
- ❖ where an employee will be working and whether they might have to relocate
- ❖ if an employee works in different places, where these will be and the employer's address

The written statement should also include:

- ❖ how long a temporary job is expected to last
- ❖ the end date of a fixed-term contract
- ❖ notice periods
- ❖ collective agreements
- ❖ pensions information
- ❖ grievance procedures
- ❖ disciplinary procedures
- ❖ how to complain about a disciplinary or dismissal decision

### ***Need more information?***

Visit: [www.gov.uk/employment-contracts-and-conditions](http://www.gov.uk/employment-contracts-and-conditions)

## **Health & Safety**

### ***Who is responsible for health and safety at work?***

When you're at work it is the responsibility of your employer (or their designated manager) to control and minimise any hazards to your safety and wellbeing. This can include:

- ❖ assessing the risks you are likely to meet in your day to day work
- ❖ taking steps to minimise these risks
- ❖ training you to ensure that you understand these risks and how to minimise any harmful effects
- ❖ providing you with suitable equipment to carry out your duties as safely as possible

- ❖ developing a health and safety policy and ensuring that all staff are aware of its contents.

### ***Does the employee have any responsibilities for health and safety?***

As an employee, it is your responsibility to make sure that you do everything you can to minimise any risks to yourself and others by following the health and safety policy of your employer.

### ***Need more information?***

Visit the Health & Safety Executive website: [www.hse.gov.uk](http://www.hse.gov.uk)

## **Equal Opportunity in Employment**

### ***What is meant by "equal opportunity" in employment?***

Equal opportunity in employment means that it is illegal for your employer to discriminate against you because of any of the following characteristics:

- ❖ age
- ❖ being or becoming a transsexual person
- ❖ being married or in a civil partnership
- ❖ being pregnant or having a child
- ❖ disability
- ❖ race including colour, nationality, ethnic or national origin
- ❖ religion, belief or lack of religion/belief
- ❖ sex
- ❖ sexual orientation

Employers are not allowed to:

- ❖ refuse someone employment
- ❖ deny them promotion
- ❖ pay them less
- ❖ select them for redundancy

based only on one or more of the above characteristics.

### ***Need more information?***

Visit: [www.gov.uk/employer-preventing-discrimination](http://www.gov.uk/employer-preventing-discrimination)

If you have questions or concerns and would like to speak to someone, contact:  
Equality Advisory Support Service (EASS) **EASS helpline – Telephone 0808 800 0082**  
**FREEPOST Equality Advisory Support Service**  
**FPN4431**

## ***Self-employment and the "Gig Economy"***

A growing number of organisations are offering employment on a "self-employed" basis. Self-employed people are exempt from many of the employment rights detailed above. They are usually also required to pay their own income tax and national insurance contributions. HMRC, the branch of government that collects tax and administers the National Living Wage has put together a test to check if a person can be classed as self-employed.

### ***Am I self-employed?***

- Are you in business for yourself, responsible for the success or failure of that business and can make a loss or profit?
- Can you decide what work you do and when, where or how you do it?
- Can you hire someone else to do the work?
- Are you responsible for fixing any unsatisfactory work in your own time?
- Has your employer agreed a fixed price for your work that doesn't depend on how long the job takes to finish?
- Do you use your own money to buy business assets, cover running costs, and provide tools and equipment for your work?
- Can you work for more than one client?

***If you are still unsure and need further advice go to the HMRC website and check with their Employment Status Indicator or telephone HMRC 0300 200 3600:***