

Payment for Working Additional Hours

This document outlines the Scottish Prison Service Policy in relation to payments made for additional hours worked in excess of contracted hours.

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Unlocking Potential - Transforming Lives.

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Directorate Owners:

Corporate Services

Policy Scope:

All SPS employees

Links to Other Policies:

Estates On Call

Senior Managers On Call

Exceptional Duties Payments

SAS Code of Practice

Approved by:

Head of Human Resources

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1.0 Introduction

The Scottish Prison Service (SPS) recognises there are occasions when both operational and non-operational employees are required to work hours in excess of their normal hours of work to deliver services in the event of complement shortfall or other unplanned or unforeseen issues which cannot be covered within existing attendance arrangements.

The terms of this policy constitute an updated collective agreement between SPS and the Trade Union Side (TUS) and supersedes any previous policies or collective agreements in relation to ex gratia and overtime.

The agreement may be subject to formal review by SPS management and the TUS at national level.

A review will be triggered by one of the parties in writing. Discussions between the parties will commence within three months of the written request for review being received.

The policy will be amended to reflect any changes resulting from pay outcome negotiations.

The policy may be terminated by SPS management at any time, with a minimum of three months' notice. In the event of termination, SPS management and the TUS will enter into discussions within one month of the termination of the policy regarding appropriate alternatives, provided either of the parties has indicated in writing to the other (within one month of notice of termination being received) their wish to do so.

2.0 Aim

The aim of this policy is to outline the circumstances in which payment for additional hours can be authorised, the agreed rates for payments, the means of applying for and receiving payment and the authority required to agree and approve payments for additional hours.

3.0 Principles

SPS is committed to ensuring employees maintain a healthy work life balance and will ensure the need to work additional hours is kept to a minimum.

SPS will provide appropriate levels of operational resources to ensure the safe operation of establishments and workplaces, taking account of leave, sickness absence, and training.

When an employee is asked to work additional shifts, the maximum scheduled hours in a working week should not exceed 48 hours as per the current [Staff Attendance System \(SAS\) Code of Practice](#) and Working Time Regulations.

First Line Managers should always consider TOIL first as an alternative to paid overtime / ex gratia wherever possible.

Resources of SPS should be managed with appropriate governance and care. Payment for working additional hours is an additional expenditure that requires justification and generally will be borne from existing allocated budgets.

4.0 Scope

An employee's contract of employment will specify the terms for working additional hours, but, if in doubt, the local HR team will be able to give advice on what terms are appropriate to each individual.

4.1 Non-Operational Posts (Bands B-E)

When employees in non-operational posts, in bands B to E are required to work additional hours, every reasonable effort will be made to give advance notice in order to minimise any personal inconvenience. Whilst employees are entitled to be paid, they may, with the agreement of their line manager, choose to take time off in lieu (TOIL). TOIL is accrued at single time rate; for example, eight additional hours worked would equate to eight hours accrued, there is no premium rate for TOIL.

4.2 Operational Posts (Bands C-E)

When an operational employee in bands C, D, or E is required to work additional hours, every effort will be made to give advance notice in order to minimise any personal inconvenience. On these occasions, employees will receive (TOIL) for hours spent in excess of their normal weekly hours.

In the event of complement shortfalls, and where it is not possible to cover operational posts using TOIL, Governors in Charge (GICs) may approve Ex Gratia payments to eligible employees who fulfil the required hours. Full details of when Ex Gratia is payable, and the process for authorising, managing, and approving Ex Gratia are contained with the [Ex Gratia Payments Scheme](#).

4.3 Posts in Bands F-I

Employees who are in bands F, G, H, and I, are required to work such additional hours as are necessary for the proper performance of their duties. Employees should inform their line manager if they are continually working more than their contracted hours, as “all hours worked” within the SPS employment contract relates primarily to flexibility within a 37 hour working week. While the working of hours above 37 may sometimes be needed to meet business objectives, this should not be regarded as a long-term expectation. Line Managers should actively discourage any general practice of excessive hours working.

4.4 Part-Time Employees – Operational and Non-Operational

Part-time employees will be paid single time rate for any hours worked up to and including 37 hours per week. Any hours worked over 37 will be paid at the published overtime / ex gratia rate. For example, where an employee who normally works 20 hours per week actually works 42 hours, the additional hours will be paid as 17 hours at plain time rate, and 5 hours at overtime rates.

4.5 Exigency and On Call

This policy does not cover the process for dealing with Exigency, or for On-Call which are covered in separate policies.

4.6 Working Additional Hours in a Different Band

Where no volunteers are available to work additional hours at the required pay band, it may be necessary to include employees in other bands. Where employees volunteer from a higher band, their line manager must authorise and justify the additional cost. These additional hours will be paid at the individual’s substantive rate of pay, and therefore will be more expensive. Where employees from a lower band volunteer to work additional hours in the higher band, they will be paid at the higher rate.

4.7 Employees with Banked Hours

In general terms, employees with Banked Hours should not be paid for additional hours until banked hours are cleared.

5.0 Definitions

For simplification of this document the following terms and definitions apply:

- **Ex Gratia** - Payment made in exchange for operational employees working over their contracted weekly hours in order to maintain service.
- **Overtime** - This is the generally accepted term for hours working in addition to contractual hours for non-operational employees.

6.0 Roles and Responsibilities

6.1 First Line Managers - Operational

First Line Managers (FLM) are responsible for effectively utilising resources to ensure rosters are maintained in line with existing agreements and are within the parameters outlined in the current [Staff Attendance System \(SAS\) Code of Practice](#).

FLMs should also ensure that the flexibility afforded via the TOIL and Bank processes are utilised to minimise the use of Ex Gratia and/or Overtime.

6.2 First Line Managers – Non-Operational

FLMs are responsible for effectively utilising their resources and should plan the most effective way of achieving service needs in order to minimise the need for working overtime. Prior to authorising any overtime, managers should use their existing resources and, where this is not feasible, should consider making use of resources from other departments or business units. Overtime should only be authorised in exceptional circumstances and when the budget holder has confirmed overtime budget provision.

6.3 Deployment Managers/Roster Managers/Unit Managers – Operational

Where management of rosters and deployment of employees is controlled via a specific manager, or within a specific function, or via a roster meeting, the rules and processes detailed in Section 6.1 should be followed and adhered to by the Deployment/Roster Manager.

Unit Managers will carry out two functions – they will act as the First Line Manager of the FLM groups and will therefore have the same responsibilities as noted in

Sections 6.1 and 6.2. They also have additional responsibilities in the claim and payment process.

6.4 Human Resources

The HR function is responsible for the maintenance of the e-HR System which is used for processing Ex Gratia payments.

6.5 Finance Managers

Ex Gratia - will agree the complement shortfalls, and determine the financial resources that can be allocated to cover these.

Overtime – will confirm budget available (if any) prior to overtime being authorised.

6.6 Employees working Additional Hours

Employees working additional hours should ensure:

- prior approval is sought before additional hours are worked;
- hours are worked;
- claims are accurate and submitted timeously;
- any errors are noted and notified to HR;
- excessive hours are not worked and their own health and safety and the health and safety of others in their care is not compromised.

7.0 Payment

7.1 Rate of Payment

For full-time employees, the rate per hour is calculated by dividing the annual pay rate by 52.2 and then by 37, then adding 30% premium for additional hours worked Monday to Friday or 60% premium for additional hours worked on a Saturday or Sunday. This can be referred to as Time Plus 30%, or Time Plus 60% for Saturday or Sunday. As noted, employees working less than 37 hours net will not qualify for payment of the premiums until they work for 37 hours, thereafter the premium will be added.

7.2 Status of Payments

Payments are non-consolidated and non-pensionable, and are subject to the usual deductions for tax and national insurance contributions.

7.3 Method of Claim

Claims for Ex Gratia must be submitted electronically through the eHR system. Details of the process can be found [here](#).

Claims for Overtime should be made on the [Overtime Claim form](#).

Further Information:

The SPS recognises that from time to time employees may have questions or concerns relating to dealing with payment for working additional hours. In these circumstances the SPS will abide by any statutory obligations.

The SPS wishes to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. Employees are encouraged to seek clarification on any issues with the appropriate Line Manager in the first instance.

Sustainability

Improving our environmental performance and doing things in a more sustainable way should be seen as integral to our core business practices.

In line with the SPS Sustainable Policy and to demonstrate compliance with the Scottish Government's commitment to improving environmental and sustainable development performance, please be mindful if printing this document – keeping paper usage to a minimum (print only version), printing on both sides, and recycling.

Equality Statement

The SPS is an equal opportunities employer where all employees are treated with dignity and respect. We are fully committed to equality, diversity and human rights and to ensuring our culture, working environment, policies, processes and practices are free from bias. This policy applies to all employees regardless of protected characteristics, and, subject to any eligibility criteria, length of service, grade, working pattern or operational status.

Inclusive Communications

It is our ambition to ensure that SPS documents are readable, accessible and engaging.

In formatting this document, good practice principles around engagement and inclusive communications have been adhered to.

If you require this document in an alternative format please contact Human Resources.

Review and Monitoring

This policy will be reviewed every three years or sooner where applicable to reflect changing business and legislative requirements.

Human Resources Policy and Guidance in SPS

SPS policies take into account current legislation, rules, regulations and best practice guidance from a range of professional and public bodies, including the following:



UK Civil
Service
Management
Code



UK Legislation



EU
Legislation



ACAS



CIPD Best
Practice