



PAYMENT OF OVERTIME OR TIME OFF IN LIEU POLICY

Date of Issue	Review Date
14/11/2019	14/11/2020
25/06/2020	30/06/2021

Purpose

The purpose of this Policy is to –

- establish a framework that explains the matters the Agency will have regard to when deciding whether to pay staff overtime for hours worked in excess of the stated “Hours per Week” in their employment agreement or to grant staff time off in lieu for such overtime hours
- ensure that decisions made by Managers regarding the payment of overtime are transparent, fair and consistent, comply with the terms of employee’s employment agreements, and that the Agency meets its ‘good employer’ obligations.

Scope

This Policy applies to all staff on fixed term contracts.

Help

Should you require help or information about this policy please contact the Chief of Staff for assistance.

Key Accountabilities and Responsibilities

Role	Description of responsibility
Chief Executive	Approves this Policy
Chief of Staff	Ensures Managers and Staff are aware of their obligations under this Policy. Reviews this Policy annually
Managers	Consider in accordance with this Policy whether hours worked in excess of the stated “Hours per Week” in the employment agreement will be paid as overtime or time off in lieu.

Related policies and documents

- Individual Employment agreements
- Fatigue and Stress Management Policy and Procedure
- Delegations Policy
- Privacy Policy
- MBIE Employment Relations Infoline, 0800 20 90 20
- MBIE employment relations website, <http://employment.govt.nz>



Relevant legislation and regulations

- Employment Relations Act 2000, available [here](#)
- State Sector Act 1988, available [here](#)
- Privacy Act 1993, available [here](#)

Measures of the success of the policy

The policy will be monitored by the Chief of Staff and measures for success are:

- Managers exercising their discretion to pay overtime or time off in lieu consistently with this Policy
- Satisfaction expressed by employees in understanding their Manager's decisions as to when overtime will be paid and when time off in lieu will be granted.

Consultation processes in developing or reviewing this policy

This policy has been approved by the Chief Executive and must be reviewed at least annually to ensure any organisational changes are accounted for.

Compliance management

The Chief of Staff will oversee the general compliance with this policy. This will include checking that:

- Manager's decisions as to when overtime will be paid and when time off in lieu will be granted are dealt with in accordance with this Policy

Training and Communication

All staff should have access to this Policy either by being referred to a hardcopy held on site or via the intranet.



Policies

Definitions

Overtime means “overtime hours” worked in excess of the stated “Hours of Work” in your employment agreement.

Overtime is paid at the rate of time and a half the normal hourly rate.

The Agency’s employment agreements contain the following provision regarding overtime and time off in lieu:

5.5 Where we have expressly approved you working overtime hours that are in excess of your ordinary hours of work as set from time to time under this agreement, you will be entitled to take time-off-in-lieu at a time agreed between you and us for the equivalent hours that you have worked overtime. Any time-off-in-lieu that has not been taken will be forfeited after 12 months or on termination of your employment.

Clause 5.5 of the employment agreement clearly provides that overtime is for “hours” worked in excess of your “Hours of Work”, and only applies to hours that have first been approved by the Agency.

Hours of Work are listed in the ‘Specific Terms’ on the cover page of your employment agreement and mean –

- For office staff and managers, 40 hours per week, which are to be worked during office opening hours of 8am and 6pm, Monday to Friday.
- Ordinary hours of work for employees of the Agency based at the mine site are currently:
 - a) 40 hours per week to be worked in line with normal mine opening hours which are 6am to 12am Monday to Friday); or
 - b) A 12 hours shift roster of 4 days on – 4 days off; or
 - c) 40 hours per week on a combination of (i) day shift working 7am to 3pm Monday to Friday (8 hours per day/40 hours per week) , or (ii) afternoon shift working 2pm to 12am(midnight) Monday to Thursday (10 hours per day/40 hours per week); or¹
 - d) A 40 hours/50 hour temporary shift work roster comprising: (i) a day shift working 7am to 5pm Monday to Friday (10 hours per day/50 hours per week) , or (ii) an afternoon shift, 4.30pm to 2.30am, Monday to Thursday (10 hours per day/40 hours per week).²

Time off in lieu means paid time off work that is an equivalent length of time to the hours of overtime worked. A minimum of 1 hour time off in lieu is granted for any overtime hours worked in excess of your “Hours of Work”. After the first hour, time off in lieu is granted in 30 minute increments.

¹ This arrangements was effective from 10 February 2020

² Hours of work updated as a result of our risk assessment and change management process which involved workforce participation. The arrangements is temporary change and effective 25 June 2020, subject to a review at end of July 2020.



Time off in lieu must be taken as time off within 12 months of when the overtime was worked. Any time off in lieu that has not been taken by an employee when their employment agreement terminates is forfeited.

Overtime or Time off in lieu

The Agency's employment agreements provide for hours worked in excess of the stated "Hours of Work" to be paid for as overtime or time off in lieu. The decision whether to pay overtime or to grant an employee time off in lieu is made by an employee's Manager.

Typical situations when an employee may be required to work in excess of the stated "Hours of Work" could include when a particular project or piece of work must be completed within a specific timeframe, to take advantage of favourable weather or mine conditions, to install equipment, or because specialist staff are only available for a limited period.

The Agency's employment agreements provide that any hours worked in excess of the stated "Hours of Work" must be expressly approved by the Agency. This means that any hours worked in excess of the "Hours of Work" must be authorised in writing by the Chief Operating Officer (COO) before you work those excess hours.

Mine Workers – Examples of time off in lieu for overtime hours worked in excess of 40 hours per week

- The COO approves 1 hour of overtime to complete a project.
 - e) You work 40 mins and are not granted any time off in lieu because you have not worked an hour in excess of your "Hours of Work"
 - f) You work 1 hour and are granted 1 hour time off in lieu
 - g) You work 1:10 hours and are granted 1 hour time off in lieu (the additional 10 minutes has not been approved by the COO)
- The COO approves 1:30 hours of overtime to complete a project.
 - h) You work 1 hour and are granted 1 hour time off in lieu
 - i) You work 1:10 hours and are granted 1 hour time off in lieu
 - j) You work 1:20 hours and are granted 1 hour time off in lieu
 - k) You work 1:30 hours and are granted 1:30 hours time off in lieu
 - l) You work 1:40 hours and are granted 1:30 hours time off in lieu
- The COO approves 2:00 hours of overtime to complete a project.
 - m) You work 1:20 hours and are granted 1 hour time off in lieu
 - n) You work 1:30 hours and are granted 1:30 hours time off in lieu
 - o) You work 1:40 hours and are granted 1:30 hours time off in lieu
 - p) You work 2:00 hours and are granted 2:00 hours time off in lieu
 - q) You work 2:20 hours and are granted 2 hours time off in lieu

Time off in lieu preferred approach of Agency

The Agency's preferred approach to hours worked by an employee in excess of their stated "Hours of Work" is to grant the employee time off in lieu.

Health and Safety

One of the core objectives of the Agency is ensuring the safety of everyone during the re-entry and recovery of the drift. The safety of the manned re-entry and recovery process is dependent on having workers who are well-rested and performing efficiently and effectively. Working long hours



in shifts or each week is not conducive to a well-rested high performing workforce. Therefore, it is the Agency's preference not to have staff working in excess of their stated "Hours of Work" if possible, and where such hours are unavoidable, it is the Agency's preference to grant employees time off in lieu rather than pay employees overtime.

Budget constraints and accountability of Agency

The Agency is a public funded body and its objective of re-entering and recovering the drift is to –

- better understand what happened at the Pike River mine in 2010, promote accountability for the tragedy, and help prevent future mining tragedies
- give the Pike River families and victims closure and peace of mind
- recover human remains where possible.

The Agency is not a private company undertaking a mining venture and seeking a make a profit. The Agency must be accountable for its expenditure and work within budgets. Time off in lieu is a preferable approach to managing work demands than the payment of overtime.

Payment of overtime

The Agency recognises there will be times when it may be appropriate to pay overtime instead of time off in lieu. For example –

- the nature of an employee's fixed term individual employment agreement or the services that are provided by the employee may mean it is unlikely there will be sufficient time for the employee to take the necessary time off in lieu
- the necessary overtime may only be for a short period and it is preferable to pay overtime for a couple of hours than to provide a couple of hours as time off in lieu, and the employee may not be able to take the necessary time off in lieu because they are required to be present during normal working hours.