

# The maximum hours an employee can work

By law an employee cannot work more than an average 48 hours a week, unless either of the following apply:

- they [agree to work more hours](#) (known as 'opting out' of the weekly limit)
- they do a [job not covered by the law on working hours](#) (sometimes known as the 'working time regulations')

There are different rules on [working hours for under-18s](#).

## 1. How average weekly working hours are calculated

1. Take the total hours an employee has worked over a 17-week period. (This period can be extended to a maximum of 52 weeks by a [collective agreement](#).)
2. Divide this total by 17. (Or by the relevant number of weeks, if the period is extended.)

## What counts as working hours

Working hours are any time the employee is 'at the employer's disposal'. This means doing things their employer has asked them to do for their job.

Working hours include:

- job-related training
- travel time as part of a job (this includes travel time between clients or customers)
- working lunches
- time spent working abroad
- paid overtime
- unpaid overtime the employer has asked the employee to do and the employee has agreed
- time spent on call at the workplace
- any time treated as 'working time' under a contract

Working hours do not include:

- breaks when no work is done, such as lunch breaks
- travelling that's outside of normal working hours and not requested by the employer
- unpaid overtime the employee has volunteered for, such as staying late to finish something off
- paid or unpaid holiday
- travel to and from work (if the employee has a fixed place of work)

## **Time spent on call away from the workplace**

This time usually counts as working hours if the employee has to do anything work-related while on call. For example, responding to work phone calls or emails.

It does not usually count as working hours if the employee can spend the time in any way they choose.

## **People with no fixed place of work**

There are different [rules for travel for people with no fixed place of work](#).

## **If an employee needs to work more hours than the average**

An employer can ask an employee to work more than 48 hours in a week. This is as long as they reduce the employee's hours in future, to even out their average weekly hours.

If the [employment contract](#) does not say anything about doing extra hours, the employer should check the employee agrees to them.

### **Example**

Sam usually works 48 hours a week. He has not opted out of the weekly limit.

This week, Sam's manager asks him to work 55 hours (7 hours more than usual). The request is because the business is short staffed. Sam agrees to work the extra hours.

To comply with the law, Sam's manager must make sure his weekly average is reduced back down to 48 hours. So after discussing the situation, Sam and his manager agree he will work 41 hours (7 hours less than usual) the following week.

## **If an employee has more than one job**

The 48-hour weekly average is the limit, even if the employee has more than one job.

### **If an employer finds out their employee has another job**

The employer must make sure their employee is not working more than an average 48 hours a week in total across both jobs.

### **Example**

Tracey works an average of 30 hours a week in a factory. This week, she tells the factory manager that she has also started working 20 hours a week in a cafe.

The manager tells Tracey she risks working more hours than the legal limit. Therefore Tracey must either reduce her total working hours to below 48, or agree to opt out of the weekly limit.

Tracey decides she would rather earn more money, so she opts out of the of the weekly limit.

## Keeping records of working hours

### If an employee has not agreed to work more than 48 hours a week

Employers should keep a record of employees' working hours (including overtime) to show they're not working over the legal weekly limit.

### If an employee has agreed to work more than 48 hours a week

If an employee has '[opted out](#)' of the 48-hour limit, the employer must keep a record of this.

These records must be kept for 2 years from the date on which they were made.

## Night workers

A night worker is someone who usually works at least 3 hours during the night period. The night period is usually between 11pm and 6am. The employee and employer can agree a different night period together, if they want to.

Night workers should not work more than an average 8 hours in a 24-hour period. You [calculate average working hours](#) in the same way as the weekly working limit.

Regular overtime is included in the average and workers cannot opt out of this limit.

Because of the possible impact on the employee's wellbeing, employers must:

- offer them a free health assessment before they become a night worker
- carry out this health assessment regularly while they are working nights

The employee does not have to accept the offer of a health assessment.

There are extra restrictions on [night working for young workers](#).

### Keeping records of night workers' hours

By law, employers must keep records of night workers' hours to show they do not work more than an average of 8 hours in any 24-hour period.

The 8-hour average cannot be used and night workers must never work for more than 8 hours in any 24-hour period if the work involves:

- special hazards

- heavy physical or mental strain

## If an employee works more hours than they feel they should

If an employee thinks they're working more hours than is legal and they have not opted out of the weekly limit, they should [raise the issue](#) with their employer.

An employee can choose to work more than an average 48 hours a week. They can do this by signing a written agreement, known as an 'opt-out agreement'.

This agreement should be separate from the employment contract.

The employee does not have to agree to opting out of the legal limit. The employer should not treat the employee any differently if they do not opt out.

### Example of an opt-out agreement

I [employee's name] agree that I may work for more than an average of 48 hours a week. If I change my mind, I will give my employer [amount of time agreed] notice in writing to end this agreement.

Signed.....

Dated.....

## 2. If an employee changes their mind about opting out

An employee can choose to cancel an opt-out agreement. They must give their employer notice if they want to do this.

This notice period depends on what's written in the employment contract but can never be more than 3 months. If the contract says nothing about it, then legally the notice period is 7 days.

### Pay for going over the weekly limit

By law, an employer does not have to offer higher pay than normal when someone works more hours because they've opted out.

Some employers choose to offer [overtime pay](#). If so, it must be written in the employment contract or agreed by both sides verbally.