

Fair Wear Foundation – Overtime policy

1. Context

1. One of the elements to be considered when discussing a policy on overtime is the often heard remark that “workers want to have overtime”, which actually means they need the extra income earned by making overtime. Thus the overtime issue is related to the living wage issue.
2. Also the living conditions of workers make a big difference, migrant workers living away from their families (e.g. in dormitories) may often prefer to sacrifice their social life for the time being to earn as much as possible, whereas workers with direct family obligations may prefer to be home in time to attend to these.
3. The root cause of the overtime problem can be manifold.
 1. At the suppliers side:
 - a. Suppliers take on any orders irrespective of their actual capacity; this may lead to excessive overtime, hiring temporary workers and/or subcontracting.
 - b. Suppliers may lack a proper planning system, lack a balance between production departments, or lack of quality management resulting in much rework.
 - c. In regions where there are a number of garment factories, during peak periods workers may hop from one factory to another and even take on additional work in another factory after finishing a job one factory. Factories may suffer personnel shortages, which they may try to solve by forcing the remaining workers to work excessive overtime.
 - d. Overtime may also be caused to make up for irregularities in power supply and transport.
 2. At the buying side root causes may include:
 - a. Tight delivery schedules (short lead times)
 - b. Bad planning of the different stages in the order planning: approval of samples, delivery of fabric and accessories in case of CMT
 - c. Late changes in orders
4. Every labour standard is applied according to national legislation or the International standard, whatever is higher. In this case, referring to the ILO Convention C1 however, still leaves a few elements open for discussion. C1 provides for possibilities to exclude cases and countries from its strict standards; it includes the possibility for public authorities to make regulations to allow for temporary exceptions “so that establishments may deal with exceptional cases of pressure of work (art. 61b) but these regulations shall be made after consultation with (a.o.) workers organisations.
5. FWF has to find out if there is any literature what constitutes “exceptional cases of pressure of work”.

2. Fair Wear Foundation policy

6. The FWF standard states: In any event, workers shall not on a regular basis be required to work in excess of 48 hours per week and shall be provided with at least one day off for every seven-day period. Overtime shall be voluntary, shall

not exceed 12 hours per week, shall not be demanded on a regular basis and shall always be compensated at a premium rate. (ILO Conventions 1 and 30)

7. (Referring to A-1 above) Irrespective of whether workers would like to work more overtime or not FWF sticks to the ILO Convention C1 or the national legislation, to avoid a race to the bottom. The living wage issue has to be solved in its own right without the necessity to work excessive overtime.
8. Since according to ILO Convention C1 overtime has to be voluntary, a company has to have a system to enable the workers or their representatives to make this choice. This system must be documented. Workers must be well informed on their rights in this respect.
9. A first prerequisite to a decent overtime policy step at company level is that the supplier must have a registration system in place that enables exact recording of overtime. A second prerequisite is to be able to manage overtime (this requires an order planning system, capacity planning system and a system to allow workers to choose whether or not to do overtime.).
10. FWF auditors must be able to quantify the extend of excessive overtime in terms of type of overtime (extra hours or extra days), frequency, duration, number of workers involved, (see audit manual).
11. FWF must look at the root cause of excessive overtime. During audits at suppliers they must also look at the role of the buyer.
12. Garment production must allow for some emergency deliveries. Ignoring this reality will lead to a cat & mouse game between suppliers and auditors. Better to have this documented so it can be assessed and possible solutions can be discussed.
13. Paying the legally required premium rate for overtime is not negotiable.
14. FWF expects that its policy might be adjusted on the basis of the outcomes of the Jo-In project.

3. Concrete limits in practice

1. The company should comply with the national law or the international standard ILO Conventions C1/C30 (whatever is the highest standard).
2. According to the FWF labour standard, overtime can only be required during 12 hours per week but not on a regular basis. This means that if the work load is so high and so frequent that this justifies the hiring of extra permanent workers, overtime should not be demanded from the workers. For the time being (see A-4 and B-9 above) this clause also defines “exceptional cases of pressure of work”, that is cases happening not often enough to justify the hiring of extra permanent workers.
3. A company working excessive overtime is required to develop a management plan to reduce the need for excessive overtime. Management is recommended to discuss the plan to reduce the number of overtime hours with workers since the introduction of working schedules that would cause a drastically decrease wages and thereby cause discontent amongst workers should be avoided.
4. Role of the buyer:

3. Bringing back overtime hours to the level required in the labour standard becomes often much more feasible if the member company can also plan ahead and guarantee its orders with this particular factory.
4. Buyer must give decent lead times/ delivery schedules. In practice this means that FWF members are expected to follow best practices in this sector.
5. Buyer must take responsibility for problems in the supply chain that are caused by complications that are due to the buyers' own choices (e.g. under CMT to have garments made in country y from fabrics coming from country x).
5. If the overall situation in the region is marked by excessive overtime (working weeks that are regularly >60 hours a week), the supplier is required (as a first step towards full compliance):
 1. The company should at least be amongst the best of the local export garment companies in reducing excessive overtime.¹
 2. And: the company should step by step bring back the total number of overtime hours per week according to a management plan that has been agreed as part of the corrective action plan to reduce excessive overtime.
 3. And: the company should stick to the maximum allowed number of hours per day as stipulated in national legislation.
 4. And: the company should ensure workers to have one rest day in every seven days.
6. Where national legislation allows for consolidated working time schedules (that allows working time to be divided unequally over days/weeks for a certain period of time) it is recommended to carefully study this as a possibility. Consultation with trade unions (and/or works councils) to find out their view on this legislation should be part of this (Where there are no trade unions with direct relations to the garment factory involved auditors should refer to what the country study contains on this issue.).
7. Auditors should recognize that overtime can never be *fully* voluntary on an individual basis in integrated production processes. But overtime should always be announced clearly and in time so that workers can take measures and organise their private lives accordingly; and workers must have the possibility to refuse overtime on urgent individual grounds. These grounds, the ways of refusing and an appeal procedure in case of disagreements, must be part of a written policy. (See also B-2/3). If national legislation or CBA contains provisions for this, the company should agree overtime with representative structures of workers. If national legislation or CBA does not contain provisions for this, the company is highly recommended to allow representative structures of workers to be set up and agree the working of overtime with them.
8. Excessive overtime does not have to lead to a corrective action plan if it only concerns a limited group of workers in indirect jobs (like drivers, maintenance, security) and if the number of workers in this category is very limited (2-3) and if hiring an extra hand (see C-3 above) is not a feasible option. However, auditors or FWF should consult local stakeholders on this issue.
9. If excessive overtime occurs only for a limited number of weeks (2-4 spread over the year) and according to the workers interviews, workers seem to be ok with that, this can be allowed.

¹ Best practice can be established by consultation with local stakeholders, other MSIs, or on the basis of the experience of the auditors. This will be a learning process to be reported once enough information is available in the country study.