



PENNINGTONS  
MANCHES

# DEVELOPMENTS IN WORKING TIME AND CALCULATING ENTITLEMENTS TO PAY

**An Introduction**

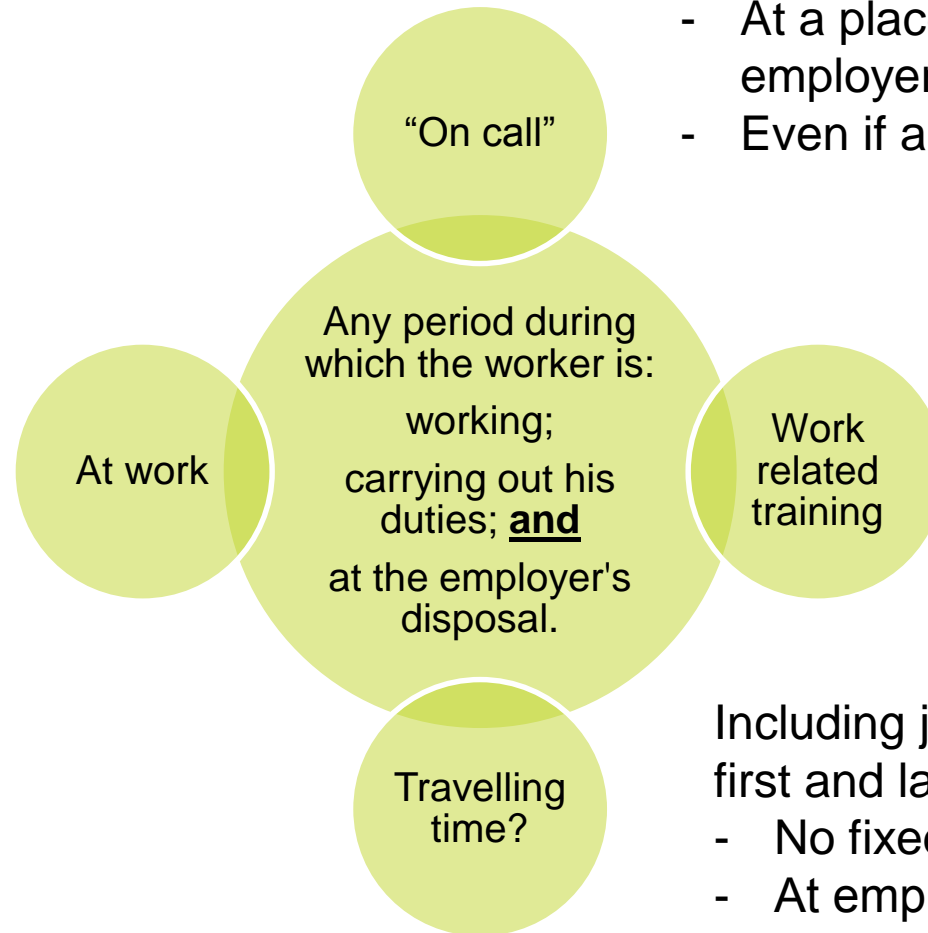


# Summary

- What is Working Time?
- Why is it regulated?
- How does it affect employees?
- Nexus with minimum wage provisions



# What is Working Time?



IF:

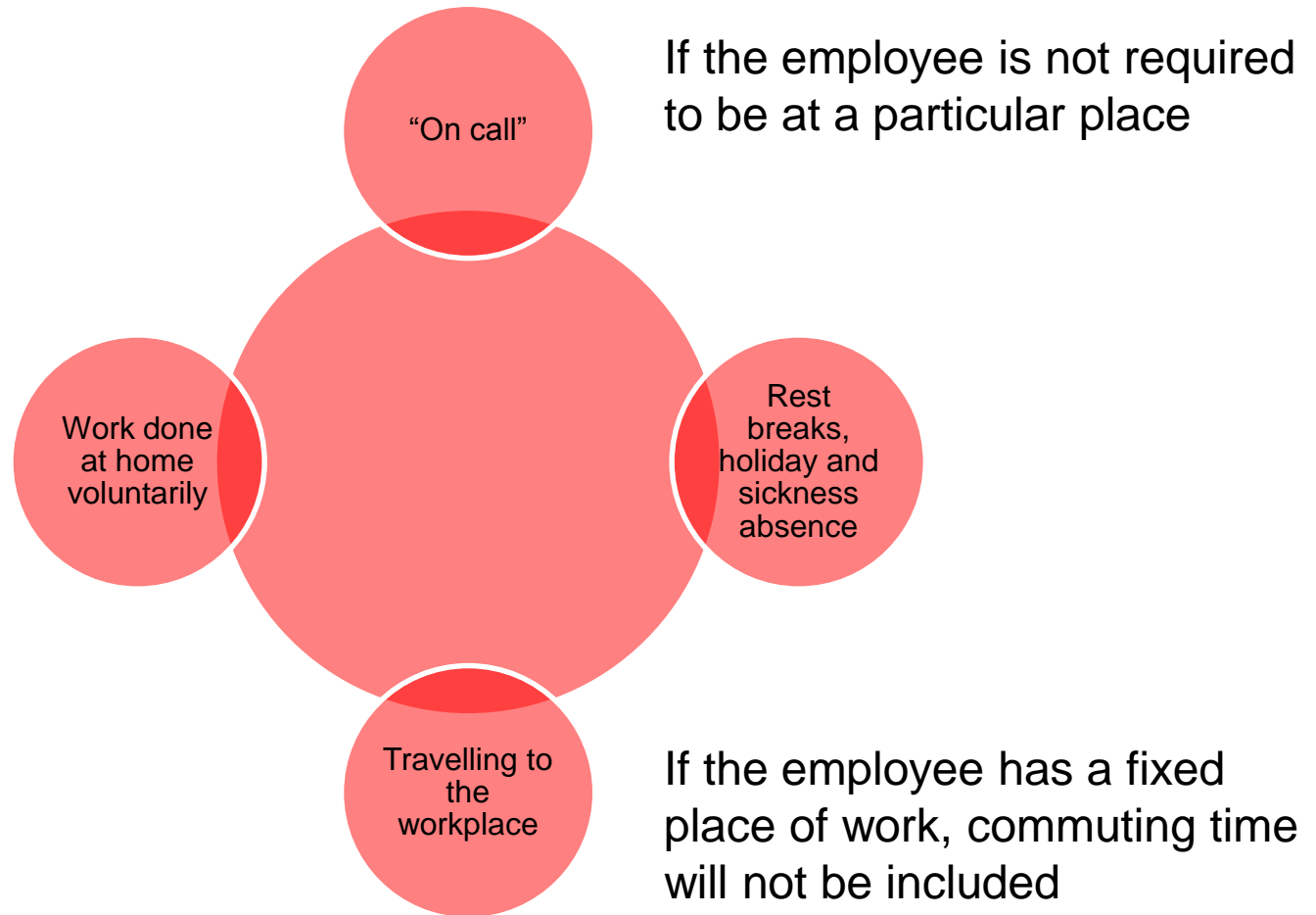
- At a place specified by the employer
- Even if allowed to sleep

Including journey to and from first and last clients if:

- No fixed place of work
- At employer's disposal



# Not included in Working Time



# Why is Working Time Regulated?

- Working Time Regulations 1998
- Implemented the EU Working Time Directive (93/104/EC)

*...take all reasonable steps in keeping with the need to protect workers' **health and safety** to ensure that...*



# Working time

- Time at the workplace working, excluding rest breaks
- Time at the workplace when required to be available
- Time spent nearby when required to be available
- Travelling time on business during normal working hours



# Holiday - summary

- WTR 1998 – 5.6 weeks
- 28 days for a full time worker
- Pro rata entitlement for part time workers



# Holiday pay

- One week's holiday = one week's pay
- Calculated according to sections 221 to 229 of the ERA 1996
- No normal working hours
  - 12 week reference period
- Normal working hours
  - Pay does not vary with work done
  - Pay varies with work done
  - Pay varies with hours worked





# Remuneration – what is included?

- Commission
- Overtime
- Expenses
- Benefits in kind
- Bonuses
- Other allowances



# Rolled up holiday pay

- What is it?
- Status at law
  - No deterrent to taking holiday
  - English Courts: criteria
  - **ECJ decision in Robinson-Steele**
- Risks and rewards of continuing to roll up holiday pay



# The National Minimum Wage and National Living Wage

Age	25 and over	21-24	18-20	Under 18	Apprentice
Rate as at April 2016	£7.20	£6.70	£5.30	£3.87	£3.30



# Who is entitled to NMW

- Workers
  - Under a contract of employment; or
  - Under a contract to do or personally perform work or services for another provided that the other is not a customer or client of a profession or business undertaking carried on by the individual
- Agency Workers
- Apprentices
- Homeworkers
- Overseas workers
- Students



# Specific categories of Workers

- Agency Workers
- Apprentices
- Homeworkers
- Overseas workers
- Students
- Volunteers
- Work experience or interns



# How to calculate NMW

- Average hourly rate
- Calculated on:
  - The total remuneration over the pay reference period:  
divided by
  - The total number of hours worked over the pay reference  
period
- Pay reference period is:
  - One month; or
  - If worker is paid by reference to a shorter period that  
period



# What remuneration counts towards the NMW

Included in NMW	Not included in NMW
Base salary	Benefits in kind (including with a financial value)
Bonus, commission and incentives based on performance	Loans including advances of wages
Piecework payments	Pension payments
Accommodation allowances	Lump sum payments including on retirement or redundancy
HMRC allowances (through agreement)	Settlement payments



# Which hours count as working time for NMW

- Actual time worked
- Standby time
- On call time
  - at home
  - at employers premises
- Travel time
- Training time
- Absence





# Enforcement



# Brexit: possible changes

- How much derives from Europe?
- How much has been implemented nationally?
- Will EU law automatically fall away?





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