



AGENCY WORKERS YOUR RIGHTS EXPLAINED

An REC and TUC factsheet



Recruitment
& Employment
Confederation



Are you an agency worker?

As an agency worker, you are supplied by an employment business (often known as a recruitment agency) to undertake assignments under the supervision, direction and control of the client.

What employment rights do you have as an agency worker?

All agency workers, subject to meeting the qualifying criteria are entitled to:

- › national minimum wage or national living wage
- › protection from unlawful deductions from wages
- › statutory sick pay
- › statutory maternity and paternity pay, shared parental pay and adoption pay
- › statutory holiday entitlement - 5.6 weeks paid holiday a year
- › right not to be charged direct or indirect fees for finding a job
- › right to a payslip which includes details of hours worked
- › minimum rest breaks
- › maximum working time - 48 average hours a week (you can opt out of this if you choose)
- › to be automatically enrolled onto a pension if you meet the required criteria
- › protection from unlawful discrimination under the Equality Act 2010
- › protection for whistleblowing
- › health and safety protections.

For further information, please visit the Acas website at: <https://archive.acas.org.uk/article/6493/Rights-while-working-as-an-agency-worker>

In addition to the above, agency workers have other rights under the Agency Worker Regulations (2010):

From Day 1 of an assignment you are entitled to receive from the client:

- › access to the same onsite collective facilities as an employee such as staff canteens, food and drinks machines, showers, childcare, and car parking
- › to be informed about any job vacancies.

After 12 weeks on an assignment you are entitled to:

- › equal pay as a permanent employee doing the same job with the same client
- › equal treatment with permanent employees with regard to rest breaks, holiday entitlement and working time
- › paid time off for ante-natal appointments.

What information should you receive as a agency worker under the Conduct Regulations?

1. A Key Information Document when you register with an employment business

From 6 April 2020, you will be entitled to a 'Key Information Document' (KID) before you enter into an agreement with an employment business. The KID must contain information including:

- › the type of contract
- › the identity of the employment business or other entity (eg umbrella company) responsible for paying you
- › the rate of pay or the minimum rate of pay
- › intervals for payment (daily, weekly or monthly)
- › the amount and nature of deductions from your pay
- › holiday entitlements and pay
- › non-monetary benefits, such as car parking and onsite gym access
- › the contact details of the Employment Agencies Standards Inspectorate, the enforcement body for the agency sector, and contact details of a relevant enforcement officer
- › a representative example pay statement, to give you an accurate indication of your take-home pay.

A KID must be provided even if you are working through an umbrella company, intermediary or your own company.

While the regulations do not apply to agency workers on existing terms with a recruitment agency, it is good practice that employment businesses provide all their workers with a KID.

2. Your contract

Key information should be set out in your agreement with an employment business including:

- › confirmation of payment regardless of whether they have been paid by their client
- › the type of work you will be doing and what is involved in the job
- › your notice period - the length of notice you must give or be given.

3. Assignment details

When offered an assignment you should receive information including:

- › start date and duration
- › name of the hirer and nature of the business
- › type of work
- › actual rate of pay
- › location of the assignment
- › hours you are expected to work
- › any health and safety risks.

Changes to your terms and conditions can only be made if you agree. You must then be given a new document with full details of the changes and the dates they changed.

No more Pay Between Assignments (PBA) in exchange for equal pay under the Agency Worker Regulations (2010)

PBA or 'Swedish Derogation' contracts are contracts of employment. Provisions previously meant that you could be paid between assignments, instead of receiving equal pay after 12 weeks of working for the same client in the same role. But from 6 April 2020, it will be unlawful if you don't receive equal pay after the 12 weeks qualifying period if you are on a PBA contract. If you were on a PBA contract, you must receive written confirmation from your employment business confirming your right to equal pay by 30 April 2020.

If you don't receive a written statement from your employment business confirming your right to equal pay by 30 April 2020 you can bring a claim to an employment tribunal and claim compensation.

If you don't receive equal pay after 12 weeks you can bring a claim to an employment tribunal and claim compensation. In addition, you should not be unfairly dismissed or subject to a detriment when you exercise your right to receive equal pay.

Written statements

From 6 April 2020, all workers will be entitled to a written statement of particulars no later than the start of your employment. This comes into force following changes to the Employment Rights Act. The statement will set out the key terms and conditions that apply between you and the employment business or employer.

How is your holiday pay calculated?

From April 2020, changes to the Working Time Regulation 1998 mean the reference period used to calculate your holiday pay will be extended from 12 to 52 weeks. This is done to capture seasonal differences in pay for some agency workers. If you have worked for fewer than 52 weeks, the pay reference period will be the number of whole weeks you have worked.

How to choose a recruitment agency

Choose an employment business with trade association membership. For instance, all Recruitment & Employment Confederation (REC) members must follow the its code of professional practice and pass a compliance test every two years to remain in membership. All REC members are listed in a member directory and you can search this by sector, location and placement type.

What should you do if you have a complaint?

- › All employment businesses are regulated by Conduct of Employment Agencies and Employment Businesses Regulations (2003) which are enforced by the Employment Agencies Standards Inspectorate (EAS). If you believe an employment business is not applying these rules you can report them to EAS. For more information go to: gov.uk/government/organisations/employment-agency-standards-inspectorate
- › Trade unions offer protection, independent advice and support at work. If you want to find out more about your rights as agency worker, unions can help. Many agency workers have joined trade unions because unions can negotiate improved pay and other terms and conditions. In certain situations trade unions can speak to your employer to resolve any workplace issues. Find out how to join a union at: tuc.org.uk/join-union
- › If you need help with a workplace issue you can join a trade union. Trade unions give their members support and guidance if they are experiencing difficulties at work. In certain situations, trade unions can speak to your employer to resolve any workplace issues. Find out how to join a union at: tuc.org.uk/join-union

- › If you are working through an REC member and believe you are not receiving the rights you are entitled to, you should first speak to your employment business. If you are not satisfied you can make a complaint about an REC member here: rec.uk.com/membership/compliance/complaints The REC can investigate complaints received against our members within the scope of our code of professional practice, at: rec.uk.com/about-us/membership/compliance/code-of-practice2
- › If you would like more information on your rights and entitlements as an agency worker, or to make a complaint against an employment business, you can contact the Acas helpline on 0300 123 1100 or find information online at: acas.org.uk
- › If you feel you are not receiving the employment rights you are entitled to you can make a claim to an employment tribunal.

Acknowledgements

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