

AGENCY WORKERS RIGHTS



INFORMATION FOR CWU MEMBERS

The Agency Workers Directive (AWD) was implemented on 1 October 2011. The purpose of the Directive is to provide temporary agency workers with equal treatment in terms of basic working and employment conditions, as if they had been employed directly to do the same job. The Directive does not affect the employment status of temporary workers.

The Directive will not cover occupational schemes, including sick pay, pensions or financial participation schemes.

1. WHO IS AN AGENCY WORKER?

You're an agency worker if you have a contract with an agency but you work temporarily for a hirer. Agencies can include recruitment agencies, for example 'temp agencies'.

You're also an agency worker if you look for work through entertainment and modelling agencies. You're not an agency worker if you use an agency to find permanent or fixed-term employment. Check with the company that hired you. Contact ACAS if you're unsure if you're an agency worker.

2. WHAT YOUR AGENCY MUST GIVE YOU

Your agency must give you information about the work they're trying to find you.

Before you're offered a job

Before looking for work for you, your agency must give you:

- a key information document
- written terms of engagement - often known as a contract

Key information document

The key information document is a short explanation of how you'll be paid and what deductions will be applied.

It must include:

- the minimum rate of pay you can expect
- a sample payslip giving an estimate of your take home pay after things like National Insurance, Income Tax or private healthcare
- who is paying you
- if you have any fees to pay
- if you're entitled to any benefits

Your agency does not have to give you a key information document if you've already agreed terms of engagement with them before 6 April 2020.

Terms of engagement

The written terms of engagement should include:

- whether you're employed under a contract for services or a contract of employment
- your notice period
- your pay
- your holiday entitlement

An agency cannot change your terms and conditions without telling you. If you agree to changes, you must be given a new document with the full details of the changes and the date they changed.

An agency cannot give information about you to any third parties (including current employers or hirers) without your permission.

When you're offered a job

The agency must give you a written statement that tells you:

- your start date
- how long the contract is likely to last
- the type of work
- about any expenses you may have to pay
- the location
- your hours
- about any health and safety risks
- about any experience, training or qualifications needed for the role

EQUAL TREATMENT

From the day you start work you have a worker's employment rights.

You also have the same rights as your permanent colleagues to use any shared facilities and services provided by your employer, for example:

- a canteen or food and drinks machines
- a workplace crèche or mother and baby room
- car parking or transport services, like a local pick-up service or transport between sites

Rights after 12 weeks

After 12 weeks in the job you qualify for the same rights as someone employed directly. This is known as 'equal treatment'.

Your rights include:

- 'equal pay' - the same pay as a permanent colleague doing the same job
- automatic pension enrolment
- paid annual leave

PAY

You're entitled to the National Minimum Wage for all the hours you work, even if you have not recorded them on a timesheet.

After 12 weeks you're entitled to be paid the same as a permanent employee doing the same job.

If your agency withholds your pay

Your agency can delay paying you while they get proof of the hours you worked, but only for a reasonable period of time.

Your agency cannot refuse to pay you because your hirer's unhappy with your work - this is a contractual issue between your agency and the hirer.

You can make a claim to an employment tribunal if your agency is refusing to pay you.

Maternity rights

You may be able to get Statutory Maternity Pay, but you cannot get Statutory Maternity Leave. As an agency worker, you have employee's pregnancy rights after working in your role for 12 weeks.

It's illegal to discriminate against you on the grounds that:

- you're pregnant
- you've given birth in the last 6 months
- you're breastfeeding

It's discrimination if your:

- agency refuses to place you in a job
- hirer refuses to hire you
- job was terminated because you're pregnant
- agency refuses to keep you on its books
- agency offers you only short jobs and gives longer ones to other agency workers
- hirer will not let you come back after having leave due to maternity

Contact ACAS if you believe you've been discriminated against.

If there's a risk to your health

Your hirer should make reasonable adjustments so you can do your job. If this isn't possible your agency must find you alternative work or pay you at the same rate for the expected length of your contract.

Antenatal care

After 12 weeks in the job you can get paid time off to go to 'antenatal care' if you cannot arrange it outside working hours.

Antenatal care includes antenatal classes, appointments and parenting classes if they've been recommended by a doctor or midwife. You must also be paid for the travel time if it's during working hours.

SOURCE

www.gov.uk website