

Agency Worker Regulations (AWR) Policy

The AWR are a set of regulations which will provide all agency workers who are placed to work in school through a temporary supply agency the right to equal treatment compared to someone who is employed directly by the school to do the same job. Some rights will apply from day one of an assignment; these are known as “day one rights”. Further rights will apply after a 12-week calendar period. The regulations came into effect on 1st October 2011. All agency workers including those employed via umbrella companies or other intermediaries. Workers who are genuinely self-employed are excluded although teachers cannot work in school in a self-employed capacity.

Equal Treatment

Equal treatment will apply to the basic working and employment conditions of the agency worker such as:

- Duration of working day
- Overtime • Breaks
- Holidays
- Pay - This includes basic pay, payment for overtime and payment for annual leave
- Terms and conditions ordinarily included in employee contracts.

These conditions should be the same for an agency worker, as for employees directly recruited by the school to do the same role. Some aspects of equal treatment apply from day one of the worker’s assignment. The regulations give agency workers the same access to certain facilities and information provided by the school.

These include:

- Access to information on job vacancies with the school (i.e., vacancy lists)
- Access to facilities and amenities (i.e. canteen, parking, staff room)

Day One rights are the sole responsibility of the client so the agency worker should address requests for information to the client. REC recommends dealing with any other queries about equal treatment on an informal basis. However, if an agency worker believes that s/he has not received his/ her equal treatment rights, the Regulations allow the agency worker to request a written statement from an agency requesting information about the treatment that the agency worker has received (though s/he can only do this once s/he has completed the 12-week qualifying period).

To trigger this formal procedure, the agency worker must make the request in writing. Once the agency

receives this request it will have 28 days to respond and to comply with the Regulations the written response must include the following information:

- Relevant information relating to the basic working and employment conditions of the client's workers
- The factors the agency considered when determining the basic working and employment conditions which applied to the agency worker at the time s/he allegedly did not receive the equal treatment they claim they were entitled to receive
- Relevant information which explains the basis on which the client's comparable employee was identified and the relevant terms and conditions applicable to that employee.

If the agency does not comply with this request, the agency worker can instead request a written statement from the client as to the information about the relevant basic working and employment conditions that apply to the client's own workers, once 30 days from the date of the original request to the agency has passed.

The school is responsible for ensuring that agency workers have 'equal treatment' in respect of access to facilities and information.

After the 12-week period agency workers are entitled to teacher basic pay and conditions. Individual pay scales are assessed in accordance with the local authority assessment policy. The agency is responsible for the assessment for everyone's pay scale.

The 12-week period is calculated by calendar weeks and is regardless of working pattern (full or part time). A new qualifying period will begin under the following circumstances.

- A new assignment with a new school commences
- A new assignment with the same employer is substantively different and a new job description can be provided to the agency worker where the main duties are different. The agency worker will receive the new job description before the start of the new assignment. It is the school and agency's responsibility to work together to ensure the correct job title and description are being provided to the agency worker.
- If there is a break of more than 6 weeks between assignments in the same role. (circumstances such as sickness pauses the clock for 28 days, school holidays aren't counted as part of the 6 week period)

The school and the agency must work together to ensure that agency workers receive equal treatment. The school must provide all necessary information, when requested by the agency in regard to the monitoring of the 12-week period and job role being undertaken. The school will be liable for providing access to employment and facilities. The agency is responsible for the accurate recording of the role of the agency worker within the school and assessing the individual's pay line in with local authority guidelines.

The recommended way of establishing the position of the agency worker in the school is to compare them to that of a permanent employee doing the same or similar work. Equal treatment under the regulations is based upon the basic terms and conditions of employment that an entry level employee would receive in that role. If

the school has a separate pay scale or policy the agency will work in collaboration with the school to assess using this information

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