AWR Policy
YSA Education

Agency Worker Regulations (AWR)
AWR came into place to provide temporary workers with the same basic employment and working conditions as if they have been recruited directly by a hirer to do the same job. These are:

- key elements of pay
- duration of working time
- night work
- rest periods
- rest breaks
- annual leave

In relation to pay 'Pay' includes:

- Basic pay.
- Overtime payments.
- Shift/unsocial hours allowances, risk payments for hazardous duties.
- Payment for annual leave (any entitlement above the statutory minimum of 5.6 weeks can be added to the hourly or daily rate) – to avoid confusion this should be identified separately on the agency worker's payslip.
- Bonus or commission payments directly attributable to the amount or quality of the work done by the individual.
- Vouchers or stamps which have monetary value and are not "salary sacrifice schemes" – e.g. luncheon vouchers, child care vouchers.

'Pay' excludes:

- Occupational sick pay.
- Occupational pensions (agency workers are covered by automatic pension enrolment).
- Occupational maternity, paternity or adoption pay.
- Redundancy pay (statutory and contractual).
- Notice pay (statutory and contractual linked to loss of employment).
- Payment for time off for Trade Union duties.
- Guarantee payments as they apply to directly recruited staff if laid off.
- Advances in pay or loans e.g. for season tickets.
- Expenses such as accommodation and travel expenses.
- Overtime or similar payments where the agency worker has not fulfilled qualifying conditions required of someone directly recruited.
- The majority of benefits in kind.
- Any payments that require an eligibility period of employment/service, if not met by the agency worker.
- Bonuses which are not directly linked to the contribution of the individual
- Additional discretionary, non-contractual bonuses.

In addition, pregnant workers who have completed the 12 week qualifying period will be entitled to paid time off for antenatal appointments.

A worker qualifies under AWR once they have completed 12 weeks in the same role at the same hirer. Whether this is full or part-time is irrelevant for the purposes of the regulations.

A week will comprise any period of seven days starting with the first day of an assignment. Weeks will be accrued regardless of how many hours the worker does on a weekly basis.

In addition to this agency workers are provided with certain day 1 rights irrespective of the period worked:

- Hirers must inform agency workers of existing vacancies.
- Agency workers are also entitled to access collective on-site facilities (for example childcare, car parking, canteen).

The hirer is liable for the provision of the above day 1 rights.

A new qualifying period will only commence if the worker takes a new assignment with a new hirer, there is a 6-week gap between assignments in the same role or if there has been a substantive change to the role undertaken by the worker, which:

- has been acknowledged and communicated to all parties.
- The qualifying period can be paused if the worker takes:
- A break of six weeks or less;
- Leave to which the worker is entitled (e.g. annual leave)
- Is on sick leave for no more than 28 weeks;
- Strike, other industrial action or planned shutdowns;
- Is on maternity, adoption or paternity leave; or
- Takes time off for other public duties (e.g. jury service).

The internal procedure will be as follows.

For every assignment booking nearing the 12-week mark is monitored, the consultant will be asked by email to confirm whether the booking has ended or will end before it reaches the 12th week. If this is the case, then the temporary supply worker will not reach a qualifying period, and no further action is required. If a booking is placed for the same worker at the same school within a 6-week period this will automatically notify the consultant that the qualifying period will restart from the previous point and the process will commence as below.

If the placement will continue for longer than 12 weeks, then the worker has qualified.

At this point, the school will need to be advised by the consultant that the worker will be qualifying for AWR, and will need to provide us with the below information:

- job title
- weeks worked without 6wk break
- annual Salary (if permanently employed directly by school)
- holiday Entitlement if greater than statutory minimum (28 days incl. bank holidays)

- comparator if relevant/necessary (someone working within a similar role)

When the school has answered all the questions, the payroll manager will need to be updated of the data collected.

Any queries in relation to this should be directed to the Branch Manager in the first instance.

The results will then be independently reviewed and confirmed by the Payroll Manager.

A worker can request information regarding equal treatment and AWR and there are strict time scales for responding to these. To ensure these are adhered to any requests should be immediately notified to both the Branch Manager and the Payroll Manager.

Where the worker does not agree with the assessment of their equal treatment, refer to the Branch Manager. The Branch Manager will oversee speaking to the worker to find out what they disagree with. The Branch Manager then reviews this with the hirer to agree the calculation, and the response to discuss with the worker.

Day One rights are the sole responsibility of the school so the worker should address requests for information to the school.

However, if a worker believes that they have not received their equal treatment rights, the worker can request YSA Education seek information about the treatment that the worker has received. This can only be done once the 12-week qualifying period has been completed.

To trigger this formal procedure, the worker must make the request in writing. Once we receive this request, we will have 28 days to respond, and the written response will 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 further information is still required, the agency worker can then request a written statement from the client as to the information about the relevant basic working and employment conditions that apply, once 30 days from the date of the original request to YSA Education has passed.