

AGENCY WORKERS Know Your Rights

WHAT IS MEANT BY 'AGENCY WORKER'?

There are three main employment statuses for employment rights:



employee



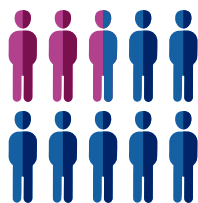
worker



self-employed

**THE TERM
'AGENCY WORKER'
IS NOT AN
EMPLOYMENT
STATUS.**

An agency worker is someone who is engaged by an agency and supplied to work under the supervision and direction of another business. Agency workers can either have an employee or worker status.



REC research* shows that **24% of the British population** has worked as a temporary agency worker at some point in their working life.

**Flex appeal: Why freelancers, contractors and agency workers choose to work this way (2014)*

As an agency worker you should make an informed choice. You should weigh up not being a permanent employee with one company against the rewards of temporary work such as greater flexibility and choice.



WHAT RIGHTS DOES AN AGENCY WORKER HAVE?

This depends on your employment status, but all agency workers are entitled to the following:

- 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
- Minimum rest breaks
- Maximum working time - 48 average hours a week, or 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
- Right not to be charged direct or indirect fees for finding a job
- Protections from being restricted from working elsewhere



FROM DAY 1 OF AN ASSIGNMENT YOU ARE ENTITLED TO:

- **Access to same facilities as an employee** such as staff canteens, food and drinks machines, toilets, showers, childcare, workplace crèche, car parking, or transport services
- **To be informed about any job vacancies**, although you may not always be eligible to apply for them



AFTER 12 WEEKS ON AN ASSIGNMENT YOU ARE ENTITLED TO:

- **Equal pay** as a permanent employee doing the same job
- **Equal treatment** with permanent employees in regard to rest breaks, holiday entitlement, and working time
- **Paid time off** for an ante-natal appointment

Rights under the Agency Worker Regulations (2010)

If you have an 'employee' status you will also be entitled to full employment rights. It should be clear from your written terms and conditions if you are a 'worker' or 'employee'.

Some agency workers will be on what is known as a pay between assignment contract (also known as a Swedish Derogation contract) which allows for agency workers to be paid when not on an assignment. As this is a contract of employment, you will be an employee, with full employment rights. However, those who work under this contract are not entitled to equal pay.

The right to receive written terms and conditions before an agency helps you find a job is guaranteed by *The Conduct of Employment Agencies and Employment Businesses Regulations (2003)*.

When you sign up with an agency or before they start to find you a job, you should be told about:



Type of contract

is it a contract of employment, or apprenticeship, or for services?



Pledge of payment

irrespective of whether the agency has been paid by their client.



Type of work you will be doing

and what is involved in the job



Notice period

Length of notice agency has to give you and vice versa

When an assignment has been offered, you should be told:



Start date



Length of assignment



Location of 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.

This factsheet was produced by the Recruitment & Employment Confederation (REC) the professional body for UK recruitment agencies and businesses. If you believe you are not receiving the rights you are entitled to, in the first instance speak to your agency. All our members are required to abide by our Code of Professional Practice and we investigate complaints received against our members within the scope of the Code. If you are working for an agency that is a member of the REC and you have a complaint, you can refer it to us: <https://www.rec.uk.com/membership/compliance/complaints>.

The recruitment industry is regulated by the Employment Agencies Standards Inspectorate (EAS) which is part of the Department of Business, Energy and Industrial Strategy (BEIS). If you believe an agency is non-compliant and wish to report them or would like more information on your rights and entitlements as an agency worker, please ring the ACAS helpline on 0300 123 1100.

The information contained in this document is provided as general background information and should not be taken as legal advice.