



University of  
St Andrews

## Agency workers

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## **1. Introduction**

- 1.1 The Agency Worker Regulations 2010 came into effect on 1 October 2011. These regulations give agency workers the same right to equal basic working terms and conditions as permanent employees after 12 weeks' service in the same or similar job.

## **2. Key principles**

- 2.1 This means that all workers who are supplied by a Temporary Work or Employment Agency, such as Office Angels (who are not directly employed by the University of St Andrews) will be entitled to receive the same terms and conditions as comparable permanent employees. These basic terms and conditions include pay, working hours, overtime, rest breaks, holidays and access to training and facilities.

## **3. General guidelines**

- 3.1 The regulations apply to all agency workers as at 1 October 2011. Some entitlements commence from Day 1 of the assignment. These include having the right to receive information about relevant job vacancies and access to facilities.
- 3.2 Some terms and conditions may be earned by employees after a specific length of service. Examples of this may be enhanced annual leave and incremental progression. For agency workers this would also apply from the beginning of the 12-week qualifying period. In addition, the regulations do not afford the agency worker any preferential treatment. For example, if there is a waiting list for a car parking permit or childcare vouchers, the agency worker would join the end of the waiting list as with any new employee.
- 3.3 It is imperative that the University keeps accurate records of all agency workers as the 12-week qualifying period could incorporate the agency worker undertaking the same or similar job at the University via several different agencies. An agency worker does not have to work a full week for it to count as a qualifying week. For example, even if an agency worker only works two days of a week then that week will count as one week towards the 12-week qualifying period.
- 3.4 The 12-week qualifying period can amass from one assignment or several and can be undertaken through the same or different agencies provided they are continuous.
- 3.5 Where an agency worker leaves the University and goes to work for another employer, the 12-week qualifying period starts again with the new employer. Alternatively, if an agency worker leaves the University, has more than a six week break in service then returns to the University, the 12-week qualifying period starts again.
- 3.6 If an employee moves to a different role within the University, then the qualifying period is also broken. For example, moving department from one administrative role to another would not be classed a different role and accordingly the qualifying period will continue.
- 3.7 The qualifying period will not be broken when the break between assignments in the same role is less than six weeks and when the breaks are for protected circumstances such as sickness absence, annual leave, jury service, shut downs or industrial action. This will also be the case with breaks in relation to family friendly policies: pregnancy, maternity, paternity and adoption.

#### 4. What is included

4.1 Equal basic terms and conditions of employment included are as follows:

- Basic rate of pay or national minimum wage and national living wage;
- Overtime and shift premiums;
- Hours of work, rest and breaks;
- Holiday entitlement up to statutory minimum (if preferable to granting time off);
- Access to facilities such as car park, child care vouchers (from Day 1);
- Equal access to apply for internal roles (from Day 1);
- Automatic pension enrolment (from October 2012);
- Discrimination rights under the Equality Act 2010;
- Health & safety at work.

#### 5. What is not included

- Bonuses and benefits intended to reward loyalty/long service;
- Pensions;
- Sick, maternity, paternity or adoption pay above the statutory minimum;
- Redundancy pay (statutory and contractual);
- Staff discount scheme;
- Expenses.

#### 6. Implementing the policy

6.1 If an agency worker believes they have not received their entitlement then they can ask the agency and University to provide details of how pay and conditions have been determined and ultimately may be entitled to make a claim through the Employment Tribunals system. In addition, it should be noted that whilst the regulations do not give agency workers employee status, there may be comparator issues should there be a discrimination claim.

6.2 If you, as the hiring manager, employ or are intending to employ agency workers, you must inform your [HR Business Partner \(HRBP\)](#) at the earliest opportunity. Agency workers should be obtained via the national Procurement Scotland framework agreement and your HRBP will be able to advise on the most appropriate course of action in discussion with Procurement and yourself.

6.3 [Human Resources](#) can be contacted for further advice and support about employing agency workers.

#### 7. Version control

Version number	Purpose / changes	Document status	Author of changes, role and school / unit	Date
1.0	Migration of all policies to the Governance Zone.	Published	Lisa Stewart, Human Resources	10/06/2019
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