

The Agency Workers Regulations 2010

Advice and frequently asked questions for Protocol National Visiting Lecturers

ProtocolNational

Leaders in FE Recruitment Process Outsourcing

What are the Agency Workers Regulations?

The Agency Workers Regulations 2010 (AWR) are derived from European legislation and are designed to give temporary agency workers parity in the basic pay and employment conditions they would be entitled to had they been recruited directly by the hirer to do the same job.

The regulations will be implemented in the UK on 1st October 2011. From this date, Visiting Lecturers will be entitled to access vacancy information and collective facilities. Additionally, Visiting Lecturers will have the right to the same basic employment and working conditions (such as pay and holidays) as comparable employees of the college after a qualifying period of 12 weeks.

If you currently receive better conditions than a comparable employee the regulations will not require the retraction of these conditions.

Your rights

What rights will I be entitled to from day 1?

- Access to staff facilities; e.g. canteens, childcare and parking. Access is on the same basis as for permanent staff.
- Access to information regarding vacant job opportunities

What extra rights will I be entitled to after the 12 week qualifying period?

- Equal pay to that of a comparable employee.
- Commissions, bonuses for personal contribution and overtime rates
- Annual leave (paid as compensation for leave not taken)
- Night work, rest periods and breaks

“Pay” Excludes:

- Pensions
- Redundancy payouts
- Occupational sick pay
- Loyalty schemes or long term-service awards
- Any payment relating to maternity, paternity or adoption leave

- Salary sacrifice schemes

This list is not exhaustive.

What is a comparable employee?

A comparable employee is an individual who is engaged in broadly similar work, but account can be taken of their skills and qualifications as this may justify a higher level of pay for the comparator.

They must work at the same workplace or, if there is no comparable employee in the same workplace, in another of the hirer's workplaces. They must be currently employed by the college.

Where there is no comparable employee you are still entitled to matched holiday and day 1 rights

How will I know what I am entitled to?

Details of pay and conditions will be displayed on your Assignment Confirmation Advice slips, including any AWR amendments.

In the event that you receive better conditions than a comparable employee (e.g. pay), the regulations would not require your pay to be brought in line with that of comparable employees.

The 12 week qualifying period

Calculating the AWR qualifying period

- The qualifying period is triggered when a temporary candidate works in the same role with the same hirer (who provides supervision and direction of those temporary staff) for a period of 12 weeks.
- A week comprises of 7 days starting with the first day of the assignment, regardless of how many days or hours worked (minimum of 1 hour per week).
- The 12 week rule still applies if you work in the same role at the College but through a different agency, you will still qualify. You must inform agencies and Colleges when this happens.
- Service prior to 1st October 2011 does not count.

The AWR Qualifying Clock

The regulations provide a number of circumstances where breaks in the assignment prevent you from reaching the 12 week period.

Think of the qualifying period as a clock. Gaps in assignments of over 6 weeks will mean the clock is reset to zero, paused or starts again depending on the reason for the break.

Reasons the AWR clock resets to zero

A break between assignments with the same college and role of 6 weeks or more (excluding annual leave and maternity leave) or a move to a substantially different role.

For the role to be classed as substantively different there must be a distinction in:

- Skills
- Pay
- Line Manager
- Working hours
- Responsibility

The teaching of different subjects is not classed as a role change.

Reasons the clock is paused

The clock will be paused if you have a break:

- For less than 6 weeks
- Up to 28 weeks if you are off sick
- Up to 28 weeks for jury service
- Un/planned shutdown of the workplace e.g. snow days or summer holidays
- Strike or industrial action

Breaks where the clock continues to tick

- Pregnancy, childbirth or maternity up to 26 weeks after childbirth
- Paternity or maternity leave

Is there anything that I need to do?

It is advisable that you keep a diary of the dates and roles you have undertaken in a College, no matter what agency it was with. This will allow you to count up the qualifying period. You must freely provide this information to your agencies on a regular basis.

If you have any questions regarding the Agency Workers Regulations then please contact us on tel: 0115 911 1185 or email: awrvl@protocol-national.co.uk