

Your employment rights as an agency worker

When you're working through an agency, it's important to know if you're classed as an 'employee' or a 'worker' under employment status law. It affects what you're entitled to and what your obligations are.

If you're self-employed and take on an assignment through an agency, this could mean you're classed as an employee or worker for the duration of the assignment.

[Check your employment status.](#)

Your rights from the start

As an employee or worker, you have rights straight away, such as:

- protection against discrimination
- National Minimum Wage entitlement
- a minimum of 5.6 weeks' holiday entitlement

From the first day of an assignment, you have the same right as direct employees of the hiring organisation to use any shared facilities and services, including:

- the canteen or food and drinks machines
- childcare services, for example a creche
- car parking or transport services

Your rights after 12 weeks

You get more rights once you've worked on the same assignment at the same hiring organisation for 12 weeks. This is called the '12-week minimum qualifying period' under the law.

The rights cover:

- pay
- holiday
- sick leave
- pensions
- working hours and rest breaks
- access to permanent job vacancies at the hiring organisation
- parental time off
- ending employment and dismissal

A week counts as any 7 days that you work in, from the day your assignment began.

For example, if an assignment begins on a Wednesday and you work 3 of the days up to the following Tuesday, this counts as a week towards the 12-week qualifying period.

A week still counts towards the 12-week qualifying period if you do not work because of:

- pregnancy
- childbirth
- maternity leave that you take during pregnancy and up to 26 weeks after the birth
- paternity leave
- adoption leave
- Shared Parental Leave

Example

You're on a 1-year assignment and you're pregnant. You've been working for 8 weeks when you call in sick with a pregnancy-related illness. Any weeks you're off sick with that illness will still count towards your 12-week qualifying period.

A week does not count towards the 12-week qualifying period if:

- the total break you have between 2 periods of work is no more than 6 weeks
- you're absent due to sickness or jury service for 28 weeks or less
- you take any of your holiday entitlement
- the workplace shuts down, for example for Christmas or industrial action

Your 12-week qualifying period will start again if you:

- go back to the same assignment after a break of 6 weeks or more that's not due to any of the reasons in the lists above
- go back to the same role after 28 weeks' absence due to sickness or jury service
- start a new assignment with a new hiring organisation

Under the Agency Workers Regulations, agencies are not allowed to create patterns of assignments that stop you reaching the 12-week qualifying period. If you think an agency is doing this, you can [report them to the Employment Agency Standards Inspectorate \(EAS\) on GOV.UK](#).

Pay rights

As an agency worker, you have the same rights as other employees and workers to:

- be paid at least the National Minimum Wage or National Living Wage
- not have any deductions from your pay that are not legal
- be paid on time and by the agreed method
- receive payslips

Your pay may vary from assignment to assignment, so it's a good idea to make sure:

- you agree to your pay rate before an assignment begins
- you're not going to get less than the rate agreed in your terms and conditions or contract

Agencies usually provide timesheets. If they do not, it's their responsibility to pay you for your hours worked. It's still a good idea to keep your own record of your working hours.

If you're not receiving at least [National Minimum Wage or National Living Wage](#), you should try to resolve the issue with your agency first. If it cannot be resolved informally, you can either:

- [report to HMRC](#)

- [make a claim to an employment tribunal](#)

Delays in pay

An agency is only allowed to delay a payment for a reasonable amount of time when they need to confirm hours you worked.

If they have problems getting payment from the hiring organisation, the agency must still pay you on time.

The right to the same pay

After you've reached the 12-week qualifying period, you're entitled to the same rate of pay as direct employees of the hiring organisation. Under the law this is called 'the right to equal treatment to pay'.

The right to equal treatment to pay includes:

- basic pay
- holiday pay that's more than the legal minimum
- individual performance-related bonuses
- commission
- overtime pay
- allowances for working shifts or unsociable hours

The right to equal treatment to pay does not include:

- bonuses linked solely to company performance or to reward long-term loyalty
- expenses
- enhanced maternity, paternity and adoption pay and Shared Parental Pay
- company pension schemes
- redundancy that's more than statutory
- sick pay that's more than Statutory Sick Pay
- guarantee payments
- season ticket loans
- paid time off for trade union duties

Changes to the law from 6 April 2020

Some agencies might have arranged to pay an agency worker between assignments to stop them getting the right to the same pay ('derogating from the right to equal treatment to pay'). But by law from 6 April 2020:

- these contracts are no longer valid
- the agency worker may still make a complaint about such a contract, even if it was before 6 April
- the agency may still offer an agency worker a permanent employment contract and pay between assignments, but the agency worker will be entitled to equal treatment to pay after 12 weeks

Holiday rights

You have the same right as other workers and employees to a minimum of 5.6 weeks' paid holiday each 'leave year' when you're on an assignment.

The leave year is how an employer works out how much holiday a year you're entitled to and when you should take it by. When you're an agency worker, it usually runs from the date you started your assignment.

You build up ('accrue') holiday entitlement from the first day of your assignment.

You also have the right to:

- carry over holiday you've not taken to a new assignment
- get paid for any holiday you've not taken if you leave the agency

After the 12-week qualifying period, you have the right to the same amount of holiday and holiday pay as direct employees of the hiring organisation.

If they give holiday above the legal minimum of 5.6 weeks, you can choose how you want to use it. You can either:

- add it to your holiday entitlement
- get paid for it on top of your hourly or daily pay rate and clearly itemised on each payslip
- get paid for it in one go at the end of your assignment and clearly itemised on your final payslip

Asking for holiday

Your agency might need an amount of notice when you ask to take holiday, so it's a good idea to check. Even if they do not, you should give them notice that's at least twice the amount of holiday you want.

For example, if you want to take 1 week of holiday, you should ask your agency at least 2 weeks before you want your holiday to start.

This is so there's enough time for them to arrange cover for your work, if necessary.

Agencies can refuse a holiday request but they must allow you to take it at another date. You must take your statutory holiday entitlement in each leave year.

[Find out more about asking for and taking holiday.](#)

Sick leave and pay rights

You have the same right as other workers and employees to:

- not work when you're too ill
- get Statutory Sick Pay (SSP), if you're eligible for it

[Check your eligibility for SSP on GOV.UK.](#)

Your agency and hiring organisation might have set out in a written agreement or policy how and when you need to contact them if you cannot work. If not, you should tell them as soon as possible the reason and how long you're likely to be off sick for.

Agency workers are not entitled to the same amount of sick pay as direct employees of the hiring organisation at any point.

Pension rights

Employment agencies must automatically enrol all their agency workers into a pension scheme within 3 months of the start of a contract.

If you do not want to be enrolled into the agency's pension scheme, you must tell the agency and the pension provider you want to opt out of the scheme.

[Find out more about pension schemes and rules from The Pensions Regulator.](#)

Working hours and rest breaks

You have the same rights as other workers and employees to:

- work no more than an average of 48 hours a week
- choose to work more by 'opting out' of the 48-hour week
- a minimum 20-minute rest break if you work more than 6 hours
- 11 hours' solid rest in any 24-hour period
- 1 day off work each week

After the 12-week qualifying period, you also have the right to the same working patterns and rest breaks as direct employees of the hiring organisation. This includes any entitlement to longer lunch breaks or other breaks.

[Find out more about rules on working hours and rest breaks.](#)

Permanent work

The hiring organisation must allow you to find out about job vacancies in the same way as their direct employees.

If the hiring organisation wants to employ you as a permanent employee, by law your agency must not stop this.

The agency might be able to charge a fee to the hiring organisation in some cases, but it must not charge you.

Parental rights

Agency workers who are becoming or already are parents have the right to:

- not be treated unfairly because of pregnancy or maternity
- paid time off for pregnancy ('antenatal') appointments when pregnant, after reaching the 12-week qualifying period
- unpaid time off to attend antenatal appointments with a partner who's pregnant

If you do not have employee status, you're not entitled to maternity, paternity or adoption leave or Shared Parental Leave, but can still stop working to care for your child. You need to tell your agency the dates you cannot work.

While off caring for your child, you may be entitled to one of the following:

- Statutory Maternity Pay
- Maternity Allowance
- Statutory Paternity Pay
- Statutory Adoption Pay
- Shared Parental Pay

[Find out more about pay for parents caring for a new child.](#)

Pregnancy and agency work

Once the hiring organisation knows you're pregnant, they must assess health and safety to:

- check the work is still suitable for you
- remove any risks

If the work is not suitable or they cannot reasonably remove risks, the assignment can be ended and the agency must either:

- find you other suitable work
- pay you for at least the expected length of the original assignment

If they find you other suitable work but you refuse it without a valid reason, they do not have to pay you.

Protection from discrimination

You have the same protections from discrimination as other workers and employees.

You must not be discriminated against because of a 'protected characteristic', for example your sex, age or disability. The agency, hiring organisation and their staff could all be held liable.

[Find out more about discrimination and the law.](#)

Ending assignments and dismissal

You and the hiring organisation do not have to give any notice to end an assignment early unless it's clearly written in your contract or assignment information.

You should tell your agency if you want to end the assignment.

If you want to leave the agency, check the contract or written agreement. Usually you need to tell them in writing.

An agency can usually end their relationship with you – or 'dismiss' you – without notice or reason unless:

- your contract says otherwise
- you're an employee of the agency and have been employed for at least 1 month

Going through a disciplinary procedure

Agencies should have rules and procedures for dealing with disciplinary issues.

The agency is likely to stop finding you work if they get reports of misconduct or poor performance.

If you're an employee, the agency should follow a disciplinary procedure to investigate the alleged misconduct or poor performance.

[Find out more about disciplinary procedures.](#)

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