
Agency Workers Policy

Policy Statement

This policy sets out this care provider's approach to the use of employment businesses or agencies to help it recruit temporary staff, who are suitably competent and qualified to work for the service in an assigned role.

The care service has a safe recruitment policy and makes every effort to recruit staff to permanent contracts wherever possible. It only employs "agency staff" on a temporary basis where necessary to maintain staffing levels and continuity of care and support to people receiving care. This might happen, for example, when staff leave or are absent for significant periods through sickness, parental leave.

When using agency staff, the care service will comply with all the regulations concerning the provision of temporary staff obtained through employment agencies.

Guidelines: Policy on the Use of Agency Workers

Principles followed in the employment of agency workers

- The use of agency workers is in line with the care service's recruitment policy and procedures and complies with all the relevant employment, and care legislation.
- When needed, the care provider will hire staff from an employment business or "agency") who will supply them on "assignments" when they will work under the care provider's job description and management.
- The temporary worker will not have employee status as a permanent staff member but will work under a contractual relationship with the supplying agency.
- The care provider will only recruit agency workers from an approved list of employment agencies.

Relationships with employment agencies

- The care provider briefs the supplying agency on the work to be done and the skills needed.
- It checks with the agency the nature of the relationship between it and the temporary worker, to ensure that the contractual relationships are between the employment agency and temporary worker and between the care provider and the employment agency. This avoids any future disagreements about employee status.

- The care provider will carry out checks in line with its Modern Slavery and Human Trafficking Policy to ensure that it only uses reputable employment agencies, particularly staff who are subject to international recruitment initiatives.
- It will make safeguarding alerts or report to the police evidence of any staff whom they think might be subject to abuse and exploitation by the supplying agency and will immediately terminate its contract with it.

Managing the temporary worker relationship

In line with its contractual relationships with the employment agency and the temporary staff member, the care provider adopts the following procedures. These include:

- limiting a temporary worker's contract to no more than 23 months. As a result, workers will not meet the qualifying service of 24 months to bring a claim of unfair dismissal. In practice, the care provider will check the need for the continued use of a temp every six to eight weeks
- referring all aspects of discipline or capability (eg poor performance) or any grievance to the employment agency for action
- checking that the agency deals with its staff members remuneration and benefits and that the care provider pays the agency a fee for its services; the care provider will not make any payment of wages or otherwise directly to the worker
- leaving questions of annual leave and sickness issues to be dealt with by the employment agency
- remembering that the care provider can at any time request an alternative worker from the agency
- not including the temporary worker in care service activities which are normally reserved for employees only.

The rights and entitlements of agency workers

Care service managers must remember that although agency workers are classed as "workers" and not "employees" and have no right to claim unfair dismissal, minimum notice or a redundancy payment, they do have a number of rights when working for the care provider. These include the following.

- Not to be discriminated against because of any "protected characteristic" under the Equality Act 2010.
- Paid annual leave (arranged through the employment agency not the care provider).
- Rest breaks.
- Limits on working time.

- To be paid at least the national minimum wage (and after 12 weeks with the care provider, to be paid the same as a comparable permanent member of staff). This is arranged through the employment agency not the care provider.
- The care provider will work with the employment agency over the transition to the same terms and benefits of employment to which the temporary worker will be entitled after 12 weeks with the care provider. In calculating the cost of taking on a temporary worker, the care provider will factor in any difference between the agency rate (payable for the first 12 weeks) and the usual rate for the job (payable after 12 weeks).
- All agency workers have the right to be provided with information about any relevant job vacancies that would be available to a comparable employee or worker from day one of an assignment. The care provider will inform the temporary worker, as it does others, of the opportunity. It expects temporary workers who wish to apply to follow the provider's equal opportunity recruitment procedures.

Ending the assignment

The care provider will tell the temporary worker at the beginning of their last week that their services will not be required beyond the end of the week and should contact their employing agency with a view to it arranging new assignments.

Training

Any staff responsible for the recruiting, hiring and deployment of agency staff will receive the appropriate training in relation to their roles and responsibilities.

Review

Signed: _____

Date: _____

Policy review date: _____