 **Guidelines on Engaging Agency Workers**

**INTRODUCTION**

The Agency Worker Regulations (2010) provide certain rights for agency workers (commonly referred to as ‘temps’). This guidance sets out the University’s legal obligations under these regulations, the University’s procedures for engaging and booking agency workers. The content of these guidelines specifically exclude Off-Payroll Workers. An “off-payroll worker” is an individual who provides their services personally via their own limited company, known as a “personal service company” (PSC) or through another intermediary such as a partnership.

**AGENCY WORKER ENTITLEMENTS**

An agency worker is someone who is employed and paid by an Employment Agency, but works temporarily in a role for the University, who in turn pay the agency.

The Agency Workers Regulations (2010) provide the entitlement for an agency worker to receive the same basic working and employment conditions as they would have if they were working directly for the University. From day one of working at BU, agency workers have rights of access to job opportunities within BU, car parking, childcare facilities and other similar collective on-site facilities. After 12 weeks in post, an agency worker becomes entitled to the same ‘basic working and employment conditions’ as if they had been directly recruited by the University instead of through an agency. Under the Regulations this is limited to working time, night work, rest periods, rest breaks, annual leave and pay. BU complies with these rights from the outset of engagement; however, given the implications, the aim is to limit the use of agency workers and to carefully consider whether their use is necessary before engaging them in accordance with [Workforce Planning Recruitment Control Process](https://intranetsp.bournemouth.ac.uk/policy/Workforce%20Planning%20%20Recruitment%20Process.docx).

The following benefits are specifically excluded from the scope of the Agency Workers Regulations:

1. Occupational sick pay;
2. any pension, allowance or gratuity in connection with retirement or as compensation for loss of office;
3. any payment in respect of maternity, paternity, adoption and shared parental leave;
4. redundancy pay;
5. a payment for time off for trade union duties;
6. any expenses payment; and
7. any payment to a worker otherwise than in his capacity as a worker.

The Agency is responsible for the arrangements of all the above benefits (1-7). In particular the Agency is must provide for the auto-enrolment into the workplace pension NEST (National Employment Savings Trust) for all their eligible temporary workers. If the agency worker does not receive the correct pay or other conditions such as annual leave because incorrect information has been provided to the temporary work agency by the University, the University will be responsible for this breach and not the Agency.

**PRIOR TO ENGAGING AGENCY WORKERS**

Any consideration for booking an agency worker should firstly be in line with the Bournemouth University [Workforce Planning Recruitment Control Process](https://intranetsp.bournemouth.ac.uk/policy/Workforce%20Planning%20%20Recruitment%20Process.docx). Agency workers should only be engaged exceptionally and the following should be considered before progressing with the booking process below:

1. Agency workers should only be engaged to cover vacant posts within the establishment and paid at the equivalent hourly rate for the vacant role. Any post outside the agreed establishment will need to be approved by the Workforce Planning UET Panel.
2. Agency workers should only be engaged in cases where essential short term cover is required, for example to cover of short to medium term sickness absence, during staff shortages due to resignations or in cases where specialist skills are required, which BU has not been able to attract via normal recruitment processes.
3. Agency staff should not be engaged for substantial periods. If cover of more than 12 weeks is anticipated (for example, maternity cover) then the possibility of appointing on a fixed term contract should be explored. Please see the [Recruitment and Selection Procedures](http://intranetsp.bournemouth.ac.uk/policy/Recruitment%20and%20Selection%20Procedures%20-%20version%202.docx) for details on recruiting to a fixed-term contract.
4. In cases where it may be appropriate to engage agency staff, there is an expectation that an initial assessment will be carried out to establish whether the work could be carried out elsewhere for a short period. This should be undertaken by the line manager and discussed with the Head of Service/Director or equivalent. In line with the approval process, Human Resources will confirm if there is anyone available through the Redeployment Register in accordance with the [Recruitment and Selection Strategy](https://intranetsp.bournemouth.ac.uk/policy/Recruitment%20and%20Selection%20Strategy.docx).

**BOOKING AGENCY WORKERS**

HAYS are the University’s supplier and they are used to source administrative, professional and support roles. If they are unable to source a temporary worker within a defined time period they will forward the booking to an agreed alternative agency (second tier by agreement).

Once a requirement/need is identified the [Agency Staff Request Form](https://intranetsp.bournemouth.ac.uk/formsrep/Agency%20Staff%20Request%20Form.xlsx) should be completed prior to placing the booking with Hays.

A fully evaluated job description and person specification must accompany the [Agency Staff Request Form](https://intranetsp.bournemouth.ac.uk/formsrep/Agency%20Staff%20Request%20Form.xlsx). Agency workers will normally be paid on the bottom point of the relevant grade (see [National Single Spine Professional & Support Staff Hourly Rates](https://intranetsp.bournemouth.ac.uk/policy/Hays%20BU%20Actual%20Charge%20Rate.xlsx) for the correct “Basic Hourly Rate” – please note that the Agency add fees to this hourly rate, known as the Actual Charge Rate) from Day 1, i.e. the grade staff employed by the University to do the same work would be paid. If the job description has not been evaluated please contact the Human Resources Team. A pay rate must not be identified without a fully evaluated job description.

When completing the [Agency Staff Request Form](https://intranetsp.bournemouth.ac.uk/formsrep/Agency%20Staff%20Request%20Form.xlsx), the Hiring Manager must identify if overtime is applicable to this role. In this case any such overtime payments must comply with the University [Payment for Additional Duties](http://intranetsp.bournemouth.ac.uk/policy/payment-for-additional-duties.doc) guidelines. Overtime payments should only be paid in exceptional circumstances.

The Hiring Manager is responsible for obtaining all the relevant approvals prior to placing the booking with Hays. Authorisation to engage agency staff must be provided by the Director of Operations/Head of Service (or other nominee), Business Accountant and HR approval via hrenquiries@bournemouth.ac.uk. Authorisation via email is acceptable.

Once authorised, the Hiring Manager is responsible for obtaining a Purchase Order (PO) number. **You must provide a Purchase Order number at the time of placing the booking otherwise the order will not be accepted.**

The following account codes are used for agency workers:

 3320 Agency - Teaching

 3321 Agency - Research

 3322 Agency - Demonstrator & Technician

 3323 Agency - Admin

 3324 Agency – Manual

* Activity code (*A suffix at the end of the code of X should be used unless the role is solely against a “standard rated” activity*)

All documentation ([Agency Staff Request Form](https://intranetsp.bournemouth.ac.uk/formsrep/Agency%20Staff%20Request%20Form.xlsx)), all approvals and the job description and person specification) should be emailed to the Agency by the authorised Hiring Manager.

Requests should be sent to **BU@hays.com** If you have any queries please phone Hays on 01202 048615.

The service level for requests is as follows:-

* For a request to start the following day, the Hiring Manager must contact Hays before 1pm the day before the required start date;
* For urgent needs requested after 1pm for the follow day start, Hays will endeavour to recruit a relevant candidate;
* For a request to start within 1-5 working days, Hays will send CV’s within 24 hours of the request, or if more than 24 hours by specific agreement with the Hiring Manager;
* For a request to start 5 days+ from the notification, Hays will send CV’s within 48 hours of the request, or if more than 48 hours by specific agreement with the Hiring Manager.

A reply will be sent to the originator providing a receipt of the booking form and containing an identified order number.

Hays will liaise with the ‘*contact name for enquiries’* as completed on the Agency Request Form for further information if necessary. If you would prefer to see CVs or interview potential temporary workers prior to them starting at BU it is important that this is clearly identified in the Agency Request Form.

Hays will confirm the temporary worker’s name, contact details and start date with the point of contact. Hays shall, where relevant to the role being sourced as part of the Services, request a determination from Bournemouth University as to whether that role will fall inside or outside scope of IR35 (as defined in Chapter 10 Part 2 of the Income Tax (Earnings and Pensions) Act 2003)). Bournemouth University will, when requested, provide such determination to Hays. If Bournemouth University determines that the role is in scope of IR35 then Hays shall ensure the relevant PAYE deductions are made throughout the assignment of the Temporary Agency Staff.”.

Should no suitable candidates be available, or Hays not be able to source the specialist expertise required other agencies may be engaged. To do this, please obtain the agencies terms and conditions and rates of pay and send these to your Human Resources Team. The terms and conditions must be reviewed by Legal Services and a Contract Authorisation Form (CAF) produced. The University should not be engage with the agency any further e.g. meeting candidates or receiving CVs, until the CAF has been produced and this process completed.

**MANAGING AGENCY WORKERS**

The agency will be responsible for pre-employment checks, including right to work, Disclosure & Barring Service checks and referencing.

The line manager is responsible for the day to day supervision of the agency worker and should treat them the same as University staff in terms of allocating and overseeing their work.

On the agency workers first day the line manager should provide a brief introduction to the University and Faculty/Department. The line manager should also provide information on location of facilities, housekeeping arrangements, health and safety issues, such as fire alarm procedures, arrangements for breaks, security arrangements, IT facilities, job duties, training and/or support. Line managers are required to ensure that all agency workers receive an induction to BU, this include completion of the standard [Induction Checklist](http://intranetsp.bournemouth.ac.uk/documentsrep/Induction%20Checklist%201.docx) and all mandatory training, including Data Protection.

If the agency worker requires a University login and email address, the line manager should submit a request via the [IT service portal](https://eur02.safelinks.protection.outlook.com/?url=https%3A%2F%2Flive.hornbill.com%2Fbuitservicedesk%2Finternal%2Fcatalog%2Fit%2520requests%2F&data=04%7C01%7Chrenquiries%40bournemouth.ac.uk%7C698f6433eb0449f4fb7008d98e25fb12%7Cede29655d09742e4bbb5f38d427fbfb8%7C0%7C0%7C637697116032238768%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=aFWcU19Kll9PrWxy9lMZvwWP2mL0aLdtc1pRMdYoF8o%3D&reserved=0). Should the agency worker wish to park in the University car parks, Scratch Cards may be purchased. They can be bought from the Finance Office in Melbury House, or at the Cash Office in Poole House.

During the agency workers assignment, the line manager is required to assign duties, assess workload and monitor performance (this does not include carrying out assessments such as probation or appraisals). Specific training will need to be provided if necessary. Any concerns relating to performance problems and/or contractual matters should be discussed directly with the agency.

If a problem arises such as a grievance or disciplinary matter, an agency worker cannot raise a grievance under the University Grievance Procedure nor can they be disciplined under the University Disciplinary Procedure. If the matter cannot be resolved informally by the line manager, it should be referred to the agency. The agency is the employer of the agency worker and will follow their own employment policies to address the matter.

Line managers will be provided with access by Hays to their online timesheet approval system. The line manager has responsibility for authorising online timesheets and checking and confirming the hours worked by the agency worker. In line with the Working Time Regulations 1998, if a worker is required to work for more than six hours, they are legally required to take a rest break – **the University has a compulsory rest break of a minimum of 30 minutes which is unpaid**. The break should be taken during the six-hour period and not at the beginning or end of it. Line managers are responsible for ensuring compliance with the Working Time Regulations, particularly the requirement for a rest break.

Please note that it will not be possible to make changes to hours after timesheet payments have been approved and payment made.

**CONTACTS**

If you have any queries please contact Hays via BU@hays.com or 01202 048615.

**FAQs**

**What happens if the agency worker is unsuitable?**

You have the right to request a replacement at any time. It is advantageous to all parties if you can provide feedback on your reasons for this decision.

**What should I do to extend an agency worker?**

To extend an agency worker please submit another [Agency Staff Request Form](https://intranetsp.bournemouth.ac.uk/formsrep/Agency%20Staff%20Request%20Form.xlsx). Please contact Hays to advise them of your intention to extend as soon as possible.

**What happens if the agency worker is dissatisfied with the placement?**

Agency workers are not under any obligation to continue working in the placement. Following discussion with the agency they can decide to terminate the assignment.

**What happens if the agency worker leaves a placement?**

The agency will endeavour to replace them with a suitable alternative.

**Can I appoint an agency worker to an established or fixed-term post without going through the recruitment process?**

No, all established and fixed-term posts must be filled in line with the University’s [Recruitment and Selection Procedures](http://intranetsp.bournemouth.ac.uk/policy/Recruitment%20and%20Selection%20Procedures%20-%20version%202.docx). If an agency worker successfully applies for an advertised job then an introduction fee may be payable by the Faculty/Service to the agency (please note that a fee does not apply in the event that the Agency Worker has already completed 13 continuous weeks on assignment)

**What if I know the agency worker?**

Any [Conflicts of Interest](https://intranetsp.bournemouth.ac.uk/policy/Conflicts_of_Interest_Policy_and_Procedures%20v4.doc) between the line manager and agency worker should be declared and wherever possible the appointment of family and friends to the immediate work area avoided.

**Do agency workers receive pay for holidays?**

Agency workers are entitled to the same pro-rated entitlement to contractual and statutory holidays as directly employment University staff. Entitlement is based on grade and will be pro-rated if working part-time. It is the responsibility of Hays to calculate entitlement and advise the Agency Worker of their holiday.

Holiday may only be taken with the prior agreement of their line manager or nominee.

**Will agency workers receive pay during the University’s Christmas closure?**

If an agency worker has been working for the University for 12 continuous weeks or has worked for the University for 12 weeks in total, with a break of less than 6 weeks, then they will be entitled to receive pay at their normal day rate for this period. Please complete their timesheets as for the days the University closed for the hours they would usually work.

**AGENCY WORKERS REQUEST PROCEDURE**

Hiring Manager identifies need for agency cover after exploring all options for internal cover

Manager completes an [Agency Staff Request Form](https://intranetsp.bournemouth.ac.uk/formsrep/Agency%20Staff%20Request%20Form.xlsx)

On receipt of all approvals, Manager to email the [Agency Staff Request Form](https://intranetsp.bournemouth.ac.uk/formsrep/Agency%20Staff%20Request%20Form.xlsx), Job Description and Person Specification, and PO Number to Hays.

Hays to supply Agency Worker or CVs. Once CV approved Manager will book the agency worker with Hays. Booking confirmation will be e-mailed to the manager.

Manager to raise PO Number to secure booking with Hays ([Parabillis Guidance](https://intranetsp.bournemouth.ac.uk/policy/Guidance%20for%20raising%20a%20Purchase%20Order%20Number.docx))

Manager e-mails the [Agency Staff Request Form](https://intranetsp.bournemouth.ac.uk/formsrep/Agency%20Staff%20Request%20Form.xlsx) including Job Description to (1) Head of Service/Dean/Director of Operations (2) Business Accountant and (3) HR (via hrenquiries@bournemouth.ac.uk) to seek approval to proceed (HR will confirm that there is no internal staff available via the Redeployment Register)

Hays to provide Manager with access to Online Timesheets System