



HM Government

# Employment Agency Standards Inspectorate

A brief guide for agencies



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# Contents

Contents	2
Glossary	4
What is EAS?	6
Our responsibilities	6
What laws are agencies governed by?	7
Who the Act applies to?	7
What is an agency?	7
Employment agencies	7
Employment businesses	8
Fees	8
An overview of the Conduct Regulations	9
Understanding the employment status of an agency worker	12
An overview of the Conduct Regulations and consequences of non-compliance	13

Regulation 10 – Restriction on charges to hirers	13
Regulation 5 – Restriction on agencies and employment businesses requiring work-seekers to use additional services; and Regulation 13 – Notification of charges and the terms of offers	14
Regulation 13(A) - Key Information Document	17
Regulation 14 – Requirement to obtain agreement to terms with work-seekers; and Regulation 15 – Content of terms with work-seekers: Employment businesses	19
Regulation 18 – Information to be obtained from a hirer	21
Regulation 19 – Confirmation to be obtained about a work-seeker	24
Regulation 20 – Steps to be taken for the protection of the work-seeker and the hirer; and Regulation 22 – Additional requirements where professional qualifications or authorisation are required or where work-seekers are to work with vulnerable persons	24
Regulation 21 – Provision of information to work-seekers and hirers	26
Regulation 27 – Advertisements	30
Regulation 29 – Records	31
<a href="#">Additional information relating to the running of an agency</a>	<a href="#">32</a>
<a href="#">Further information and guidance</a>	<a href="#">35</a>

# Glossary

Sometimes the language used when talking about agency work can be confusing. Here are some brief definitions to help you out:



**Act** – the Employment Agencies Act 1973



**Agency** – a generic term for a business that finds temporary, permanent or contract work for work-seekers



**Booking confirmation** – a document provided by the agency when an assignment is offered. It may be by text, messaging system or email but will detail the particulars of the work being offered



**Employment agency** – a business that finds permanent roles where the work-seeker is employed by the hirer either short or long term



**Employment business** – a business that finds and supplies temporary work-seekers roles with hirers



**Hirer** – the agency's client that the work-seeker is introduced or supplied to and carries out work for



**Introduction** – when a work-seeker is introduced to a hirer before any work commences. This could be by way of an interview or submission of a work-seeker’s CV to a potential hirer



**Regulations** – the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (last amended in 2019)



**Supply** – when a work-seeker begins working for the hirer



**Terms** – terms of engagement that must be agreed with a work-seeker before any work-finding services commence. This document is often referred to as a contract or terms and conditions



**Umbrella company** – a payroll company, which might charge or deduct a fee from a work-seeker’s payment that has been passed to them by an employment business to process the work-seekers’ wages earned through the agency. In some cases, the work-seeker will become an employee of the umbrella company



**Work-seeker** – a person who is looking for or being found work through an agency – this includes self-employed persons and limited company work-seekers.

**This document is intended as a brief guide to your interactions with hirers and work-seekers and should not be taken as an authoritative statement on the law or a substitute for taking legal advice. It is intended to provide an overview of the Conduct Regulations and your obligations.**

## What is EAS?

Laws to protect agency workers are enforced by the Employment Agency Standards Inspectorate (EAS), which sits in the Department for Business, Energy and Industrial Strategy (BEIS). EAS is the regulator of employment agencies and employment businesses in Great Britain. Northern Ireland has its own legislation.

## Our responsibilities

We are responsible for:

- working with employment agencies and businesses to help them comply with the law
- investigating complaints received from agency workers
- carrying out targeted operations in occupation or geographical sectors based on risk profiling
- taking enforcement action through the powers at our disposal, including warning letters, Labour Market Enforcement Undertakings and/or Orders, prosecution or prohibition, identifying agency workers at risk of exploitation, and working alongside our partner organisations
- supporting the role of the Director of Labour Market Enforcement who sets the strategic direction for labour market enforcement bodies

## What laws are agencies governed by?

There are specific laws relating to work-seekers and hirers when they use the services of an agency. Agencies must operate in accordance with the Employment Agencies Act 1973 (the Act) and the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (as amended) (the Conduct Regulations).

## Who the Act applies to?

The Act applies to both employment agencies and employment businesses regardless of whether they are run to make a profit or by non-profit making bodies.

## What is an agency?

Agencies are businesses that offer work opportunities with their clients. There are two kinds: employment agencies and employment businesses. These are both commonly known as agencies by the general public. Employment agencies find 'permanent' placements (where workers are employed by the hirer either short or long term), and employment businesses (employing and supplying temporary and contract workers to hirers) engage workers who are then supplied to the hirer.

## Employment agencies

Under the Act, an employment agency is defined as a business that provides services (whether by the provision of information or otherwise) for the purpose of finding workers employment with employers, or supplying employers with workers who will be employed by them.

The Act applies to a wide range of agencies, from recruitment agencies to specialist agencies such as entertainment and modelling agents, online platforms and executive search consultants.

## Employment businesses

An employment business is defined as a business that supplies people who are in its employment to act for, and be under the control of, other people, in any capacity. This covers the hiring out of workers on a temporary basis and is frequently called 'temping'. The Act does not apply to sub-contracting – i.e. independent contractors undertaking specific tasks using their own staff acting and remaining under their direction and control.

## Fees

Employment agencies and businesses are prohibited from charging fees to workers for finding or trying to find them jobs. Exceptions to this are for finding jobs for performers and certain other workers in the entertainment field, and photographic or fashion models.

The Act does not regulate the fees charged to hirers by employment agencies and businesses or the rates paid by the employment businesses to workers employed by them. However, should an employment business intend to charge transfer fees to hirers they must adhere to the requirements set out in Regulation 10 (see page 13).



# An overview of the Conduct Regulations

## General obligations

**Regulation 5** – Restriction on requiring work-seekers to use additional services

**Regulation 6** – Restriction on detrimental action relating to work-seekers working elsewhere

**Regulation 7** – Restriction on providing work-seekers in industrial disputes

**Regulation 8** – Restriction on paying work-seekers' remuneration

**Regulation 10** – Restriction on charges to hirers

**Regulation 12** – Prohibition on employment businesses withholding payment to work-seekers on certain grounds

## Requirements to be satisfied before work-finding services are provided

**Regulation 13** – Notification of charges and the terms of offers

**Regulation 13A** – Key Information Document

**Regulation 14** – Requirement to obtain agreement to terms with work-seekers: Employment businesses

**Regulation 15** – Content of terms with work-seekers: Employment businesses

**Regulation 16** – Requirement to obtain agreement to terms with work-seekers and content of terms with work-seekers: Agencies

## Requirements to be satisfied in relation to the introduction or supply of a work-seeker to a hirer

**Regulation 18** – Information to be obtained from a hirer

**Regulation 19** – Confirmation to be obtained about a work-seeker

**Regulation 20** – Steps to be taken for the protection of the work-seeker and the hirer

**Regulation 21** – Provision of information to work-seekers and hirers

**Regulation 22** – Additional requirements where professional qualifications or authorisation are required or where work-seekers are to work with vulnerable persons

## Special Situations

**Regulation 23** – Situations where more than one agency or employment business is involved

**Regulation 24** – Situations where work-seekers are provided with travel or required to live away from home

## Client Accounts and Charges to Work-Seekers

**Regulation 25** – Client accounts

**Regulation 26** – Circumstances in which fees may be charged to work-seekers

## Miscellaneous

**Regulation 27** – Advertisements

**Regulation 28** – Confidentiality

**Regulation 29** – Records

**Regulation 30** – Civil liability

**Regulation 31** – Effect of prohibited or unenforceable terms and recoverability of monies

**Regulation 32** – Application of the Regulations to work-seekers which are incorporated

**Regulation 33** – Electronic and other communications

**Regulation 34** – Review

## Understanding the employment status of an agency worker

There are three main types of employment status:

- Employee
- Worker
- Self-employed

The employment status can usually be found in the terms of engagement, often referred to as a contract. However, how the relationship works in practice is what will determine the actual employment status.

### Workers

Many agency workers are classed as workers. Workers have some employment rights such as paid holiday and the National Minimum Wage. They will usually have few obligations and the right to decline work offered to them. They will have limited employment rights.

### Employees

Some agency workers are classed as employees. Employees are employed under a contract of service (or contract of employment). They may have full employment rights and the rights that workers have plus others, such as being paid if work isn't available. However, employees also have more obligations to the agency than workers. For example, employees may have to accept work offered to them and be available to work a minimum amount of hours each week.

### Self-employed

If an agency worker is genuinely self-employed, they may work under a contract for services. They are often referred to as contractors. They do not have employment rights (although they still have full rights under the

Employment Agencies Act 1973 and associated Conduct Regulations) and have fewer obligations to the agency than an employee or a worker. For example, they'll usually be able to send someone else in their place.

## **An overview of the Conduct Regulations and consequences of non-compliance**

The Conduct Regulations were implemented by the Secretary of State under Section 5 of the Act and are designed to set standards of conduct for those operating in the recruitment sector. The Conduct Regulations set the standards to be met.

Any person who contravenes the Act and/or the Conduct Regulations is guilty of an offence and liable to a fine on conviction.

Where an offence has been committed, EAS may consider a Labour Market Enforcement Undertaking (for a period of up to two years). If an Undertaking cannot be agreed or, once in place, is not complied with, EAS can apply for a Labour Market Enforcement Order (for a period of up to two years) through the courts. If a person fails to comply with the Order, they could be fined or imprisoned for up to two years.

The Secretary of State can also consider applying for a prohibition order against a person from carrying on or being concerned with the carrying on of an employment agency or employment business for up to a maximum of 10 years on the grounds of misconduct or unsuitability.

## **Regulation 10 – Restriction on charges to hirers**

The amount of fees charged by employment agencies and employment businesses to their clients (hirers) for services is not regulated by the Act or Conduct Regulations and is deemed to be a business-to-business arrangement. Should you choose to charge a transfer fee, you can only do so within specific time frames, as set out below.

Transfer fees should be set out explicitly within your terms with hirers. Employment businesses can charge a transfer fee to a hirer when one of

its temporary work-seekers is taken on permanently, or through another employment business by the hiring company (or a third party that the hirer introduces them to).

If you operate as an employment business and wish to charge a transfer fee, you must also provide the hirer with the option of a period of extended hire, and it is down to the hirer to choose which option they want. An extended period of hire is a period of time during which you would continue to supply the work-seeker. After the conclusion of this period, the hirer would take on the work-seeker free of charge.

Transfer fees may only be charged within specific time periods, as set out in the legislation, which is 14 weeks from the day after the temporary worker starts an assignment, or within 8 weeks following the last day on which the temporary worker worked for the hirer.

Failure to offer an extended period of hire as an alternative to a transfer fee within your terms would render the requirement for the hirer to pay a fee unenforceable.

If you introduce a work-seeker to your client but they are never engaged or supplied through your employment business, you can seek to charge a fee should they later be engaged directly with the hirer, subject to your terms of business with that hirer.

## **Regulation 5 – Restriction on agencies and employment businesses requiring work-seekers to use additional services; and Regulation 13 – Notification of charges and the terms of offers**

Under Section 6(1) of the Act, employment agencies and employment businesses are prohibited from charging work-seekers a fee for finding them work. However, you can offer other non-work finding services and a fee can be charged.

Regulation 5 states that you may not make your work-finding services conditional upon the work-seeker using other goods or services provided by you or someone else.

Regulation 13 requires both employment agencies and employment businesses to notify work-seekers of the particulars of goods or services for which they may be charged a fee before providing or arranging the provision of any goods or services for the first time by you or by someone else. Work-seekers can withdraw from such goods and services without being subject to a detriment.

This would include a situation where work-seekers are introduced to umbrella companies. You should be mindful that work-seekers cannot be forced to work through or be paid by umbrella companies, however if this is the only route that you use to pay work-seekers you must inform them of this before engaging with them and they can choose whether or not to engage with you.

The table below provides a breakdown of the information that must be provided to work-seekers. It is important to note that the obligation to provide this information is only when the work-seeker will be charged a fee for that service.

<b>Requirement</b>	<b>What this means</b>
<b>The amount or method of calculation of the fee</b>	Explain exactly how much the work-seeker will be charged for the service you are arranging or providing. Where an exact fee is not known, you should detail the calculation of the fee.
<b>The identity of the person to whom the fee is payable or will be payable</b>	Who the work-seeker will pay the fee to. This may be your business or a third party.

Requirement	What this means
<p><b>A description of the services or goods to which the fee relates</b></p>	<p>Details regarding the services or goods that the work-seeker is paying for. You should provide as much information as possible.</p>
<p><b>A statement of the work-seeker's right to cancel or withdraw from the service</b></p>	<p>Explain that the work-seeker has the right to cancel or withdraw from the service (provided by you) for which they are paying a fee.</p>
<p><b>The notice period to cancel or withdraw</b></p>	<p>Detail how much notice you expect the work-seeker to give you when cancelling or withdrawing from the service you are providing.</p> <p>You should note that in accordance with Regulation 5 (Restriction on requiring work-seekers to use additional services) you cannot request that the work-seeker gives the provider of services any more notice than five business days or, for services relating to the provision of living accommodation, notice of 10 business days.</p>
<p><b>Refunds or rebates payable to the work-seeker</b></p>	<p>Details regarding the scale of any refunds or rebates, and if no refunds or rebates are payable, a statement to that effect.</p>



## Regulation 13A – Key Information Document

Key information documents (KIDs) are intended to give agency workers a number of pay related facts along with some other details about their engagement. This is so they have more information about their pay at an earlier stage, particularly so that they can see how deductions and fees affect their pay through the supply chain.

KIDs must be given to agency workers before agreeing terms so they can make a more informed decision about their engagement by an employment business. They must clearly reflect the minimum amount an employment business expects to achieve for an agency worker (for example, not less than national minimum wage). They must also include a description of all deductions to be made to a worker's pay. For statutory deductions (e.g. income tax), this can just be an explanation that the deduction will be made. For non-statutory deductions and fees (e.g. an umbrella company's margin), the KID must **either** state the amounts to be deducted **or** explain how they are calculated.

KIDs must also include representative example statements to demonstrate how the listed deductions will be made to an example rate of pay. Real numbers must be used in the example statement, as opposed to simply listing the types of deductions made and their method of calculation, as is acceptable in the rest of the key information document. These figures may be estimated and do not need to exactly reflect the specific rate of pay subsequently received by the agency worker, but they should demonstrate in a realistic way the deductions made to a proposed rate of pay and how these affect a worker's take home pay.

Where employment businesses have multiple ways of paying an agency worker (e.g. subject to PAYE or through different umbrella companies) it is expected that the business will have a standard KID corresponding to each payment method. It may be helpful to show each new worker the different key facts pages corresponding to those payment methods, so they can understand the different deductions they lead to and help them choose which method to use. However, this is not required by the regulation. Ultimately, an individual worker must at least receive a KID that

reflects the payment method that they are to be contracted under. **This means that there is no obligation to provide evidence of the different methods of engagement being offered but you must retain a copy of the finalised KID given to the work-seeker.**

Because the figures in a key information document do not always need to be precise final figures, they do not necessarily need to be revised for every assignment. They only need to be updated as and when the information contained within them changes. This might for example be when a new deduction is made, such as student loan repayments or contributions to a private healthcare scheme, or when a worker's right to equal treatment under the Agency Workers Regulations 2010 takes effect.

**You should note that the KID should not usually exceed two pages of A4 in length. Further information and templates can be found [here](#):**

**<https://www.gov.uk/government/publications/providing-a-key-information-document-for-agency-workers-guidance-for-employment-businesses>**

## Regulation 14 – Requirement to obtain agreement to terms with work-seekers; and Regulation 15 – Content of terms with work-seekers: Employment businesses

These Regulations relate only to employment businesses and set a requirement to agree terms of engagement with work-seekers. This may be referred to as contract, terms, or terms and conditions.

These must be agreed before any work-finding services commence. There is no obligation for terms to be signed by the work-seeker, but you must be able to evidence that they have been agreed.

Requirement	What this means
<b>A statement that the employment business will operate as an employment business in relation to the work-seeker</b>	Explain that you are operating as an employment business.  This informs the work-seeker that you are seeking temporary work on their behalf.
<b>The type of work the employment business will find or seek to find for the work-seeker</b>	Explain the type of work that will be sought on behalf of the work-seeker.
<b>How the work-seeker will be engaged</b>	Provide a statement to advise whether the work-seeker will be employed by the employment business under a contract of service or apprenticeship, or a contract for services.

Requirement	What this means
<b>An undertaking that the employment business will pay the work-seeker in respect of work done by him, whether or not it is paid by the hirer in respect of that work</b>	Include an undertaking to pay the work-seeker for all hours worked even if you do not receive payment from the hirer.
<b>The notice period</b>	Explain how much notice the work-seeker must give and will receive to terminate their assignment with each hirer.
<b>The rate of remuneration</b>	Detail either the actual rate of pay payable to the work-seeker or the minimum rate of pay that you expect to be able to achieve for each assignment that you send the work-seeker to.
<b>The intervals of pay</b>	Detail the intervals at which wages will be paid to the work-seeker.
<b>Holiday entitlement</b>	Advise the work-seeker of any entitlement to annual leave and holiday pay.

## Regulation 18 – Information to be obtained from a hirer

Regulation 18 provides that employment agencies and employment businesses must not introduce or supply a work-seeker to a hirer unless it has sufficient information from the hirer to select a suitable work-seeker for the position the hirer seeks to fill.

This means that before introduction (sending a work-seeker for an interview or submission of a CV) or supply (supplying a work-seeker to undertake work) you need to obtain a minimum amount of information about the job and conditions under which the work-seeker will be expected to work. The following table provides an overview of the information that must be obtained.

Requirement	What this means
<b>Identity of the hirer</b>	The name of your client.
<b>Nature of the hirer's business</b>	A brief description of your client's business.
<b>Start date</b>	The date on which the work will commence.
<b>Duration of assignment</b>	This is the length of time the assignment is expected to last or an end date. If there is no fixed end date, you could agree that the work will be ongoing, but the likely duration must still be stated.
<b>The position to be filled</b>	Job title.

<b>Requirement</b>	<b>What this means</b>
<b>The type of work that the worker is expected to undertake</b>	An overview of the duties that the work-seeker will be expected to undertake during the assignment.
<b>Location</b>	This is the location where the work-seeker will normally be expected to undertake the assignment.
<b>Days and hours of work</b>	Detail the days and hours that the work-seeker will be expected to work.
<b>Any known health or safety risks</b>	<p>You are required to obtain information from the hirer regarding any known health or safety risks.</p> <p>Where there are known risks, you must confirm what steps are being taken by the hirer to control or mitigate these risks.</p> <p>This would include obtaining information from the hirer regarding any personal protective equipment (PPE) that the work-seeker would be required to wear.</p>

Requirement	What this means
<b>Any experience, training, qualifications, and authorisations deemed necessary by the hirer or required by law or any professional body</b>	Detail any experience, training, qualifications or authorisations that are required by the hirer, a professional body or the law, to work in the assignment.
<b>Expenses payable by or to the worker</b>	Note any expenses payable to, or by the work-seeker.
<b>In the case of an employment agency there are further obligations to adhere to:</b>	
<b>The minimum rate of remuneration and other benefits payable to the worker</b>	Detail the minimum amount of pay that the hirer will be prepared to pay to the work-seeker along with any benefits.
<b>The intervals of pay</b>	Detail the frequency that the work-seeker will receive pay.
<b>The notice period the worker is entitled to receive and give to terminate employment with the hirer</b>	How much notice the work-seeker has to give and is entitled to receive to bring their employment to an end.

## Regulation 19 – Confirmation to be obtained about a work-seeker

Regulation 19 states that an employment business must not introduce or supply a work-seeker to a hirer unless it has obtained confirmation of the following:

- (a) That the work-seeker has the experience, training, qualifications and any authorisation that the hirer considers necessary, or that the worker needs to have by law or by the requirements of any professional body, to carry out the work. This requirement can be properly discharged when registering a work-seeker. During the registration process you can request to see evidence of training completed, qualifications, and authorisations such as certificates and registrations with professional bodies. You must keep evidence that you have done this.
- (b) Both employment agencies and employment businesses are required to obtain confirmation from the work-seeker that they are willing to work in the position being offered.

It is important to note that where the work-seeker will be required to work with vulnerable persons, (a) and (b) will apply to both employment agencies and employment businesses.

This will mean seeing a suitable document which provides evidence of the work-seeker's identity, such as a passport, driving licence or birth certificate.

This obligation extends to work-seekers who supply their services through a limited company and applies to the company and the person or persons supplied by the limited company. This would not apply if the work-seekers have agreed to 'opt-out' of the Conduct Regulations in accordance with Regulation 32(9); however where a work-seeker will be working with the 'vulnerable', they cannot opt out



of the Conduct Regulations. Please see page 25 for further information.

Remember: you are required to evidence this confirmation. Verbal confirmation alone is not sufficient. You should also be mindful that you may be subject to obligations under legislation such as Right to Work as governed by the Home Office. Further information can be found here:

**<https://www.gov.uk/government/publications/right-to-work-checks-employers-guide>**

## **Regulation 20 – Steps to be taken for the protection of the work-seeker and the hirer; and Regulation 22 – Additional requirements where professional qualifications or authorisation are required or where work-seekers are to work with vulnerable persons**

Regulation 20 places a requirement to undertake steps to ensure that both the work-seeker and hirer are aware of any requirements imposed by law that must be satisfied for the work-seeker to work in the position the hirer seeks to fill.

Regulation 22 refers to the additional measures that must be taken when work-seekers will be working with vulnerable persons. The Conduct Regulations provide that 'vulnerable' includes people who are young, elderly, infirm or under the age of 18. This obligation extends to work-seekers who supply their services through a limited company and applies to the company and the person or persons supplied by the limited company. This requirement cannot be opted out of.

You must ensure that all practicable steps have been taken to confirm that the work-seeker is suitable for the position concerned. Make sure that the

work-seeker not only fulfils the requirements by law but also those imposed by relevant professional bodies.

These additional measures give a requirement to obtain two references for work-seekers. Where two references are not obtainable, you should document the efforts you have made to obtain the references. This must be shared with the hirer and you can present them with the choice of hiring them regardless.

You must take all other reasonable practical steps to confirm that the work-seeker is suitable for the position concerned (for example, seeking a Disclosure and Barring Service check).

This applies to both employment agencies and employment businesses.

## **Regulation 21 – Provision of information to work-seekers and hirers**

### **What you must give to the hirer**

Regulation 21(1)(a) provides that when an employment agency or employment business proposes a work-seeker to a hirer it must give the hirer all the information it has obtained about the work-seeker under the requirements of Regulation 19.

This can be provided verbally but must be confirmed in writing within three business days and should include the work-seeker's name (and company name if a limited company), the experience, training, qualifications and authorisations that they have to undertake the role and a statement that the work-seeker is willing to do the work in question.

If acting as an employment business, you must also make clear to the hirer the contractual basis upon which you have engaged the work-seeker – i.e. whether the agency or employment business has engaged the work-seeker under a contract for services, employed under a contract of employment (contract of service) or apprenticeship.

## What you must give to the work-seeker

Under Regulation 21(1)(b), when an agency or employment business offers a work-seeker a position with a hirer, it must give the work-seeker the information about the hirer which it has obtained under the requirements of Regulation 18.

If it is acting as an employment business and has not previously agreed the actual rate of pay with the work-seeker for the position in question, in accordance with Regulation 15(d)(i), it must do so at this stage.

Below you can find a sample document that can be used to record the request from the hirer and share the information obtained with the work-seeker.

Requirement	What this means
<b>Identity of the hirer</b>	The name of your client.
<b>Nature of the hirer's business</b>	A brief description of your client's business.
<b>Start date</b>	The date on which the work will commence.
<b>Duration of assignment</b>	This is the length of time the assignment is expected to last or an end date. If there is no fixed end date, you could detail that the work will be ongoing, but the likely duration must still be stated.
<b>The position to be filled</b>	Job title.

Requirement	What this means
<b>The type of work that the worker is expected to undertake</b>	A summary of the duties that the work-seeker will be expected to undertake during the assignment.
<b>Location</b>	This is the location where the work-seeker will be expected to undertake the assignment.
<b>Days and hours of work</b>	You should detail the days and hours that the work-seeker will be expected to work.
<b>Any known health or safety risks</b>	<p>You are required to inform the work-seeker of the information you have obtained from the hirer regarding known health or safety risks.</p> <p>Where there are no known risks this must be communicated to the work-seeker. Where there are known risks, alongside communicating the risks you must also detail what steps are being taken by the hirer to control or remove these risks.</p>
<b>Any experience, training, qualifications, and authorisations deemed necessary by the hirer or required by law or any professional body</b>	Detail any experience, training, qualifications or authorisations that are required by the hirer, a professional body or the law for the work-seeker to work in the assignment.

<b>Requirement</b>	<b>What this means</b>
<b>Rate of pay</b>	If you have not already agreed an exact rate of pay within your terms of engagement, you must do so here.
<b>Expenses payable by or to the worker</b>	You should also note any expenses that will be payable by the work-seeker.
<b>In the case of an employment agency there are further obligations to adhere to:</b>	
<b>The minimum rate of remuneration and other benefits payable to the worker</b>	Detail the minimum amount of pay that the hirer will be prepared to pay to the work-seeker along with any benefits.
<b>The intervals of pay</b>	Detail the frequency that the work-seeker will receive wages.
<b>The notice period the worker is entitled to receive and give to terminate employment with the hirer</b>	How much notice the work-seeker has to give and is entitled to receive to bring their employment to an end.

## Regulation 27 – Advertisements

This Regulation relates to adverts. It requires that in every advert both employment agencies and employment businesses make their full name of business clear. You must also detail whether the role being advertised is temporary or permanent.

There are further requirements when advertising specific job roles. You must not advertise any role unless you can satisfy both the following:

- (a) you must have information about all the specific positions included in the advertisement
- (b) the authority of the hirer concerned to find work-seekers for each role being advertised

Should you post a generic advertisement for workers, for no particular hirer, you are not required to have the authority of the hirer or hold information about the roles being advertised.

Should you choose to refer to a rate of pay you must also state:

- (a) the nature of the work
- (b) the work's location
- (c) the minimum experience, training and qualifications, which the work-seeker needs to have to receive those rates of pay

## Regulation 29 – Records

Regulation 29 relates to both employment agencies and businesses and provides that you must keep records that are sufficient to show that you have complied with all the provisions of the Act and the Conduct Regulations.

You must keep information regarding:

- (a) work-seekers you provide work-finding services to
- (b) hirers you introduce or supply work-seekers to

The records mentioned above must be kept for at least 12 months after their creation and retained for at least 12 months following the date that the employment agency or employment business last provided work-finding services to either a work-seeker or hirer.

You are not required to keep details of a work-seeker if you take no action in relation to finding work for that work-seeker. For example, if you receive a high volume of speculative CVs that are not used, records need not be retained on the work-seekers these CVs relate to.

You may keep records either at the premises where you trade or elsewhere, provided that they are readily accessible and can be delivered to the trading premises to which they relate if requested by an EAS inspector.

If the records are kept elsewhere, they must be delivered by no later than the end of the second business day following the day on which a request for them is made.

## Additional information relating to the running of an agency

You should note that the following legislation is not governed by EAS. You can contact ACAS to obtain further information about the requirements. Contact details for ACAS can be found on page 35.

### Agency workers and the right to a written statement of employment particulars

Agency workers will need to establish worker or employee status in order to access some statutory employment rights. Agency workers that have employee or worker status will be entitled to a written statement from their employer. Whether an agency worker is an employee or worker, as well as who their employer is for the purposes of the written statement, will depend on the specific circumstances of the case. In many cases, the employer will be the employment business or, if used, an umbrella company.

Guidance on the right to a written statement can be found at:

**<https://www.gov.uk/employment-contracts-and-conditions/written-statement-of-employment-particulars>**

There are other, separate requirements regarding information that must be provided to agency workers by their employment business. These are contained in the Employment Agencies Act 1973 and the associated Conduct of Employment Agencies and Employment Businesses Regulations 2003 (the 'Conduct Regulations'), both as amended.

More information about agency worker's rights and the requirements on employment businesses can be found on the Employment Agency Standards Inspectorate's website at:

**<https://www.gov.uk/government/organisations/employment-agency-standards-inspectorate>**



There will be some overlap between the information that is required as part of a written statement, and the information that is required specifically to be given to agency workers by the Conduct Regulations.

The Conduct Regulations require that all agency workers agree terms with their employment business before work-finding services can begin, as well as specifying some of the information that must be contained in those terms (the relevant regulations are 14 and 15). This does not necessarily need to be provided in a separate document from the written statement. If the terms agreed under the Conduct Regulations also provide the same information required by a 'written statement' it will meet both sets of requirements, provided that it is in the format of a written statement or alternatively in the format of either a contract of employment, or other worker's contract or letter of engagement. However, it is worth noting that certain contents of the written statement must be provided together in the same document (the 'principal statement' described elsewhere in this guidance).

A written statement must be provided on 'day one' of an employee or worker's employment. As the terms agreed under the Conduct Regulations must be agreed before work-finding services (and therefore the agency worker's 'employment') can begin, these terms will meet the timing requirements of a written statement.

It will of course not be possible to provide agency workers with the same level of information as other types of workers or employees when they first receive terms/their written statement. For example, a day one written statement should include the days of the week and any hours of work that a worker has. If there is no information to be entered under any of the particulars of the written statement, then that should be made clear. An agency worker's specific days and hours of work will not be known until an assignment is found and will vary with each assignment. The terms should be as detailed as they can be and explain that specific hours and days will be provided once an assignment is found.

If there are any changes as to the particulars required by the written statement, then the employer must update the worker with the change of particulars. This does not mean an entirely new statement of terms/contract needs to be provided for every new assignment an agency worker accepts. The Conduct Regulations already require agency workers to be given specific information for each assignment they are found, such as pay rates and health and safety information (the relevant regulation here is Regulation 21). The agency worker can be updated with any specific changes to the information required by the written statement (such as hours of work) in the same manner and in the same communication. But this will need to ensure that the agency worker is updated with the information required by both the Conduct Regulations and the written statement and that the timing and means of communication meet each set of requirements (for example, both the written statement and the Conduct Regulations requires the communication to be written: the Conduct Regulations require this to be as soon as possible and in any event within three days of a verbal confirmation, while the written statement requirements require this to be at the earliest opportunity and in any event within one month).

Please note, the agency worker-specific requirements under the Conduct Regulations are enforced by the Employment Agencies Standards Inspectorate (EAS). EAS do not enforce the requirement to give a written statement and it will be for the individual worker to enforce this.

## Further information and guidance

More information relating to the obligations of employment agencies and employment businesses can be found on the EAS website:

**<https://www.gov.uk/government/organisations/employment-agency-standards-inspectorate>**

You can contact EAS via email: **[eas@beis.gov.uk](mailto:eas@beis.gov.uk)**

You can also contact EAS by post at the following address:

EAS, Department for Business, Energy and Industrial Strategy, 1 Victoria Street, SW1H 0ET.

You can contact EAS via telephone using the ACAS helpline: **0300 123 1100**

## ACAS

Acas (Advisory, Conciliation and Arbitration Service) provides free and impartial information and advice to agencies, employers, workers and employees on all aspects of workplace relations and employment law. They also provide training and tailored advice to employers. You can contact the Advisory, Conciliation and Arbitration Service (ACAS) for free advice on employment matters via their website

**<https://www.acas.org.uk/index.aspx?articleid=1873>** or telephone **0300 123 1100**.

## Gangmasters and Labour Abuse Authority

The Gangmasters and Labour Abuse Authority (GLAA) is an investigative agency for tackling labour exploitation in the workplace.

It can investigate all aspects of labour exploitation, including Modern Slavery offences such as forced labour. The GLAA also runs the licensing scheme for the supply of temporary workers into the UK fresh produce

sector. Unlicensed labour supply is a serious offence and carries a penalty of up to 10 years in prison.

If you know of a business operating outside the law, exploiting workers, gaining an unfair or illegal advantage, or you have any information, then you can call **0345 602 5020** and speak to the GLAA intelligence team.

Alternatively, call the GLAA's free reporting line on **0800 432 0804**. Any call to the GLAA can be dealt with in strict confidence, if you prefer not to leave your name. It's also possible to report issues by emailing **intelligence@gla.gov.uk**, completing an online form or by calling the Modern Slavery Helpline on **08000 121 700**.

For more information on the Gangmasters and Labour Abuse Authority please visit **www.gla.gov.uk**.

## **HM Revenue and Customs National Minimum Wage enforcement**

Employers must pay the minimum wage to workers if it is due. HM Revenue and Customs (HMRC) enforces the minimum wage. HMRC compliance officers may carry out inspections of employers at any time. There is no requirement to provide reasons for an inspection.

Officers will act in response to complaints that an employer is not paying the minimum wage – whether the complaint is by workers or others. They will also investigate where there may be a risk of non-payment.

If a compliance officer believes that an employer has failed to pay at least the minimum wage to a worker, they can serve that employer with a notice of underpayment.

Guidance to help employers meet National Minimum Wage legislation can be found at **www.gov.uk/beis/minimum-wage-guide**

## Tax Avoidance

Some agencies choose to work with umbrella companies. Most umbrella companies operate within the tax rules; however, some promote arrangements that claim to be a 'legitimate' or a 'tax efficient' way of reducing workers tax liability but which may expose workers to unexpected tax bills. Find more information about umbrella companies here <https://www.gov.uk/guidance/umbrella-companies-offering-to-increase-your-take-home-pay-spotlight-45>

You should also report these types of arrangements to HMRC and can do so here <https://www.gov.uk/government/organisations/hm-revenue-customs/contact/tax-avoidance>. Please be aware that HMRC cannot tell anyone whether an arrangement being promoted is legitimate or not. If an agency worker is in doubt, they should be advised to seek independent advice.

You can find out more about identifying tax avoidance schemes here <https://www.gov.uk/guidance/tax-avoidance-an-introduction#how-to-identify-tax-avoidance-schemes>

## Health and Safety Executive

The Health and Safety Executive sets the strategy, policy and legal framework for health and safety in Great Britain. Their role as a government regulator is to prevent workplace death, injury or harm and they achieve this by:

- providing advice, information and guidance
- raising awareness in workplaces by influencing and engaging
- operating permissioning and licensing activities in major hazard industries
- carrying out targeted inspections and investigations

- taking enforcement action to prevent harm and hold those who break the law to account

You can find further advice and guidance here: [www.hse.gov.uk](http://www.hse.gov.uk)

## Director of Labour Market Enforcement

Further information regarding the current Director of Labour Market Enforcement can be found here: <https://www.gov.uk/government/people/matthew-taylor>

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Any enquiries regarding this publication should be sent to us at [eas@beis.gov.uk](mailto:eas@beis.gov.uk)