



# **Agency Workers Policy**

**New Policy: September 2022 v1.0**

Vision and Values	3
Purpose	3
General Principles	3
Equal Opportunities	4
Responsibilities	5
Agency workers	5
Line Managers	5
School Business Managers	5
Agency Workers Regulations (AWR) 2010	5
Approved supplier agreements	7
What is an Agency Worker?	7
Pregnant Agency Workers	7
Supply Teachers	7
Teachers Pay and Conditions	7
Support staff	8
The 12 week qualifying period	8
School closures	8
Review	9

## Document Control

### Changes History

Version	Date	Amended by	Recipients	Purpose
1.0	January 2022		All Plymouth CAST Employees	New policy

### Approvals

This policy requires the following approvals:

Board	Chair	CEO	Date Approved	Version	Date for Review
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	22nd July 2022	1.0	September 2024

### National/Local Policy

☐ This policy must be localised by Academies

☒ This policy must not be changed, it is a CAST/National Policy (only change logo, contact details and any yellow highlights)

### Position with the Unions

Does the policy require consultation with the National Unions under our recognition agreement? ☒

Yes ☐ No ☐ If yes, the policy status is: ☒ Consulted and Approved ☐ Consulted and Not Approved ☐ Awaiting Consultation

### Distribution

This document has been distributed to:

Position	Date	Version
All CAST Central employees, CAST Headteacher, CAST Directors, JCC	September 2022	1.0

## **1. Vision and Values**

- 1.1. Plymouth CAST is a multi-academy trust of Catholic schools which is part of the mission of the Catholic Church dedicated to human flourishing and the building of a kingdom of peace, truth and justice. The Trust is to be conducted in all aspects in accordance with canon law and the teachings of the Roman Catholic Church and at all times to serve as a witness to the Catholic faith in Our Lord Jesus Christ.
- 1.2. Our vision and values are derived from our identity as a Catholic Trust. Central to our vision is the dignity of the human person, especially the most vulnerable. Our academies are dedicated to providing an education and formation where all our pupils and young people flourish in a safe, nurturing, enriching environment. All governors in our academies are expected to be familiar with the vision, mission, values and principles of the Trust and not in any way to undermine them. They should support and promote the vision and conduct themselves at all times in school and on school business according to the vision and principles of the Trust
- 1.3. Plymouth CAST expects all its employees to recognise their obligations to each school within the Multi-Academy Trust, the public, pupils and other employees and to provide consistently high standards of education and performance at all times and in accordance with Plymouth CAST's vision, mission and principles.

## **2. Purpose**

- 2.1. Plymouth CAST recognises its responsibilities to provide job opportunities to internal and external applicants on a fair, consistent and equitable basis. In certain circumstances the Trust may need to engage agency staff in order to comply with statutory responsibilities and to meet the demands of the service.
- 2.2. Schools across Plymouth CAST will ensure agency workers will only be used when there is sound financial, and business need to do so. It will be widely accepted that in principle the employment of agency workers should be used for short term cover.
- 2.3. This policy sets out the rights of agency workers employed by the Trust and how they should be managed.
- 2.4. This policy applies to schools employing agency workers and individuals working as agency workers.

## **3. General Principles**

- 3.1. Where there is a requirement to engage agency workers for short term cover, this will be based on the following reasons:
  - Emergency cover

- Last minute sickness
- Short term cover in the event of recruitment difficulties.
- Periods of long term absence (in exceptional cases where alternative arrangements such as temporary contracts are not possible, see section 3.8).

The business need should not generally involve cover for pre-arranged leave.

- 3.2. From the first day of employment agency workers will have access to the same facilities as that of any other employee of the Trust. They will also have access to information relating to job vacancies.
- 3.3. After a 12 week qualifying period agency workers will be entitled to equal treatment which relates to pay and other basic working conditions.
- 3.4. The hiring school will act as the 'Hirer' on behalf of the Trust in accordance with the Agency Workers Regulation 2010. The hirer is responsible for supervising and directing the agency worker while undertaking the assignment.
- 3.5. Line Managers should not employ workers procured from an agency as a direct employee. Any vacancies should be advertised in line with the Plymouth CAST Safer Recruitment and Selection Policy and Procedure.
- 3.6. All agency workers should be engaged to work up to a maximum of 37 hours per week.
- 3.7. Where an agency worker does not perform to the required standard, the line manager should contact the agency to discuss this. The agency is responsible for providing performance feedback to the worker.
- 3.8. Before deciding whether to engage an agency worker, please consider whether there are other suitable cost effective options for cover arrangements, such as:
  - Moving an employee for a fixed term period to cover the post
  - Offering a temporary increase in hours to part time employees
  - Recruiting on a temporary basis
  - Offering a secondment opportunity to an existing employee
  - Offering additional hours (overtime) to existing staff (if feasible and within budgetary constraints).

#### **4. Equal Opportunities**

- 4.1. The Agency Workers policy must always be applied fairly and in accordance with employment law, the Agency Workers Regulations 2010 and Plymouth CAST Equal Opportunities Policy.

- 4.2.** Plymouth CAST is committed to ensuring all agency workers receive equal treatment and entitlement under the Agency Workers Regulations legislation.

## **5. Responsibilities**

### **5.1. Agency workers**

- Agency workers are responsible for reporting areas where they feel they are not receiving equal treatment to their Line Manager.

### **5.2. Line Managers**

- Line Managers are responsible for ensuring agency workers have access to their facilities and can view job vacancies from the first day of their assignment.
- Line Managers, with the support of their administrative staff, are responsible for ensuring agency workers have had the appropriate pre-employment checks before commencing employment with us.
- Line Managers are responsible for ensuring there is a business need to use agency workers.
- Line Managers are responsible for ensuring agency workers receive an appropriate induction, including assessing any training requirements.

### **5.3. School Business Managers**

- School Business Managers are responsible for advising managers in the application of this policy.
- School Business Managers are responsible for ensuring there is a business need to use agency workers.

## **6. Agency Workers Regulations (AWR) 2010**

- 6.1.** The Agency Worker Regulations came into force on 1<sup>st</sup> October 2011. It entitles agency workers to have access to the same facilities as that of permanent employee and access to job vacancies within the Trust from day 1 of their assignment. It also enables agency workers to have 'equal treatment' in respect of basic working and employment conditions, as if they had been directly employed by the Trust after a qualifying period of 12 weeks in the same assignment.

**6.2.** Equal treatment means employers must allow agency workers:

- Access to the same pay as a comparable worker doing broadly similar work. The pay will include holiday pay and overtime allowances where applicable.
- Access to the same holidays, special leave, working time, overtime, breaks and rest periods as other employees in the Trust on comparable terms and conditions.

- Equal access to collective facilities, canteens, staff rooms, car parking etc. Access to facilities can be refused if based on objective grounds. For example, there is a waiting list for car parking spaces, an agency worker would not automatically be entitled but can be subject to the same criteria to access the facility.
- Access to information about internal vacancies to give them the same opportunity as other workers to find permanent employment
- Access to training

6.3. Equal pay includes:

- Basic salary
- Bonuses or commission payments related to quantity/quality of work
- Shift allowance
- Overtime payments
- Holiday pay
- Vouchers that have a fixed monetary value which are not part of a salary sacrifice scheme.

6.4. Equal pay does not include:

- Pension
- Occupational sick pay
- Loyalty schemes
- Maternity, paternity and adoptive pay above statutory entitlements
- Vouchers related to a salary sacrifice scheme
- Occupational sick pay

7. Exemptions from the Agency Workers Regulations (AWR)

- 7.1. Where an agency can offer an agency worker a permanent contract, the AWR allows an exemption from equal treatment in regards to pay. In order for this to apply the contract must state that the agency will continue to pay the worker between assignments if there is no work. This means that the worker will not, after 12 weeks in the same job, be entitled to the same pay and conditions (such as holiday pay) that would ordinarily be included if recruited directly by the hirer.
- 7.2. If an agency worker signs such a contract with the agency, the worker still gets the same day 1 rights such as access to facilities and vacancies. After 12 weeks they will also be entitled to equal treatment in relation to duration of working time, night work, rest periods and rest breaks and the right to time off.

## **8. Approved supplier agreements**

- 8.1. Plymouth CAST have approved suppliers in place, where preferential rates can be obtained provided we contact them first. For details of current suppliers please contact the Plymouth CAST central office.

## **9. What is an Agency Worker?**

- 9.1. An agency worker will have either a contract for service or a contract of employment with the agency who finds them work.
- 9.2. The organisation (i.e. the school/Central team etc) who hires the agency worker pays a fee to the agency, and the agency pays the agency worker their wages.
- 9.3. Agency workers are not employed by the Trust, any contractual relationship will be with the agency.
- 9.4. Some agencies employ their workers directly and therefore provide their staff with a contract of employment. Other agencies contract workers to provide a service.

## **10. Pregnant Agency Workers**

- 10.1. Pregnant agency workers who have completed the 12 weeks qualifying period have the right to paid time off to attend ante-natal appointments, as per the Plymouth CAST Family Friendly Policy.
- 10.2. The school should carry out the appropriate risk assessment upon notification that the agency worker is pregnant.
- 10.3. Pregnant agency workers must be offered suitable alternative work if the current role can no longer be fulfilled. If suitable alternative work is not available, the agency worker is entitled to be paid for the remainder of the expected duration of her assignment.

## **11. Supply Teachers**

- 11.1. Teachers Pay and Conditions
  - If a supply teacher is employed, the Trusts Teachers' Pay and Condition policy does not apply prior to the 12 weeks qualifying period. An agency can set the rates of pay and conditions of employment.
  - Under AWR, after 12 weeks in the same role with the same school an agency supply teacher is entitled to the same pay and conditions of employment as a teacher employed by the Trust.
- 11.2. If a school asks a temporary work agency to provide a teacher to carry out specified work in a school and that person is a qualified teacher, they should be paid as a



qualified teacher. If the person is an unqualified teacher, they should be paid as an unqualified teacher.

## **12. Support staff**

- 12.1. The relevant rate of pay is determined by the nature of the job. Therefore, if a school requires an agency worker to cover a teaching assistant role and that person engaged to do the work is a qualified teacher, they would be expected to carry out the role of a teaching assistant and be paid as such.

## **13. The 12 week qualifying period**

- 13.1. The equal treatment will apply after the worker has engaged in employment with the Trust for 12 weeks regardless of their working pattern (full time/part time), even if the worker completes half a day per week for 12 weeks.
- 13.2. A new qualifying period will only begin if:
- A new assignment with the Trust is substantively different to their prior role, for example, being employed as teaching assistant instead of a teacher.
  - There is a break of more than six weeks between assignments in the same type of role.
- 13.3. The 12 weeks qualifying period does not have to be consecutive. The period may be paused due to:
- Sickness absence (up to 28 weeks)
  - Jury service (up to 28 calendar days)
  - Annual leave
  - School holidays or any break in assignment not lasting more than 6 weeks (excluding summer holidays)
  - Strike or other industrial action at the School.
- 13.4. The qualifying period can be with different agencies, but the agency worker must remain with the same hirer (the School).
- 13.5. It is the hiring Schools individual responsibility to monitor the qualifying periods of their agency workers.

## **14. School closures**

- 14.1. The AWR recognises that in some instances a workplace may close due to temporary cessation of the hirers requirements for a worker to be at the premises. This could include periods such as summer holidays.
- 14.2. If an agency supply teacher is working before and after such closure and is part way through their qualifying period, the qualifying period would pause at the end of one term and start again at the beginning of the next, as long as the agency worker returns to the same job at the school.

## **15. Review**

- 15.1.** The content of this policy and procedure may be subject to revision from time to time following consultation with the recognised trade unions.

<b>Date</b>	<b>Page</b>	<b>Details of the change</b>	<b>Agreed by</b>
<b>22/7/2022</b>	<b>3</b>	3.1- Added bullet point 4	<b>SELT/JCC/Board of Directors</b>
<b>22/7/2022</b>	<b>7</b>	10.1- Typo corrected	<b>SELT/JCC/Board of Directors</b>

- 15.2.** History of changes

**Policy to be reviewed by the Plymouth CAST Board in consultation with the JCC in (date) or when legislation changes or operational reasons arise.**