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Model Service Level Agreement between the Labour Provider and the Labour User for the Agency Workers Regulations

Introduction

A Service Level Agreement enables both labour providers and labour users to understand their respective obligations and acts as a framework for both parties to work in partnership to establish standards and continually improve the quality of service.

It is separate to and does not form part of the written and signed commercial contract between the parties.

The section below deals specifically with the Agency Workers Regulations and is designed to be inserted into the existing Service Level Agreement that exists between the labour provider and the labour user.

Service Level Agreement for the Agency Workers Regulations

- a. The Labour Provider and the Labour User confirm that they shall not knowingly cause the other party to breach their statutory obligations set out under the Agency Workers Regulations.
- b. The channel of communication for the passing of information between the parties relating to the Agency Workers Regulations is as follows: . Both the Labour Provider and the Labour User will inform the other immediately should it i) receive a complaint from a worker that they do not believe they are being provided with the correct entitlements under the Agency Workers Regulations, or ii) become aware of any situation in which a worker is not being provided with the correct entitlements under the Agency Workers Regulations.
- c. The Labour User will provide upon request from the Labour Provider details of the employment and working conditions that apply to the permanent employee(s) of the Labour User undertaking the same or similar role(s) detailed in 5a above.
- d. Where the Labour User has no permanent employee(s) undertaking the same or similar role(s) as detailed in 5a above, the Labour User will provide upon request from the Labour Provider details of the employment and working conditions that the Labour User would provide to a worker if the Labour User engaged a worker directly in the role(s) detailed in 5a above.

- e. The employment and working conditions, which the Labour User shall provide to the Labour Provider, shall be as follows:
- i. Basic salary – including details of any standard/agreed increments or pay bands.
 - ii. Overtime – rates and qualifying rules.
 - iii. Shift/unsocial hours – rates and qualifying rules.
 - iv. Risk/hazardous duties – rates and qualifying rules.
 - v. Standby/on-call – rates and qualifying rules.
 - vi. Bonus/commission/incentive/reward payments.
 - vii. Working time – details of all hours during which the employee is working or expected to be available for work.
 - viii. Night work.
 - ix. Rest periods between working days or shifts.
 - x. Rest breaks during the working day or shift.
 - xi. Annual leave entitlement – including details of any standard/agreed increments.
- f. The Labour Provider shall demonstrate that it has a robust and confidential computer and/or paper filing system in place regarding all information provided to it.
- g. For all role(s) detailed in 5a above and prior to commencement of an assignment the Labour Provider will provide confirmation in writing to the Labour User as to whether the worker is considered an “agency worker” as defined by the Agency Workers Regulations.
- h. Upon request from the Labour Provider the Labour User shall provide the Labour Provider with details of any assignments the Labour Provider’s worker has undertaken through any other Labour Provider for the Labour User during any period since 1st October 2011.
- i. The Labour User agrees to provide agency workers with access to any relevant internal vacancies of the Labour User, which are routinely made available to the Labour User’s comparable employees or workers.
- These will be accessible to agency workers as follows: .
- j. The Labour User shall prior to commencement of an assignment provide the worker with details of, and make available to the worker the amenities and facilities at the Labour User’s site, which are routinely made available to the Labour User’s comparable employees and/or workers. Should the Labour User wish not to provide the worker with access to a facility the Labour User must put in writing to the Labour Provider an objective justification for the denial of such access. The Labour Provider shall provide the details of such a denial to the worker.

Access to Facilities and Amenities	Provided to directly employed workers? YES / NO	How will they be provided to agency workers or what is the objective justification if not?
Transport to work		
Transport between sites		
Car Parking		
Site entry and exit		
Access to Lockers		
Locker Keys		
Toilets / Shower Rooms		
Canteen		
Vending machines		
Rest areas		
First Aid		
Occupational Health		
Crèche/ child care		
Smoking facilities		
Prayer Room		
Any other collective facilities		

- k. The Labour Provider shall keep records of and track the amount of qualifying weeks (as defined by the Agency Workers Regulations) worked on assignment by each worker.
- l. Once a worker provided by the Labour Provider has completed 11 weeks on assignment in the same role for the Labour User the Labour Provider shall confirm certain details to the Labour User. These details shall include:
 - i. the date upon which the worker will complete 12 weeks on assignment in the same role;
 - ii. a comparison of the employment and working conditions provided by the Labour User, and the corresponding terms provided to the worker;
 - iii. confirmation of any required enhancement in the terms to be provided to the worker should they continue to work beyond the date stated in clause i above.
- m. Where the Labour Provider is providing a worker under a “Pay Between Assignments” employment contract (as defined in Regulation 10 of the Agency Workers Regulations) the Labour Provider shall:
 - i. inform the Labour User of this fact before the commencement of the assignment. The Labour Provider confirms that any such employment contract shall adhere to the requirements set out in Regulation 10 of the Agency Workers Regulations, and shall share the details of such standard employment contract with the Labour User if requested to do so.

- ii. demonstrate that it has a robust procedure in place to track periods when workers are available/unavailable for work.
 - iii. ensure that for any periods during which the worker is deemed to be available for work but is not working on assignment, the Labour Provider shall pay the worker in line with the requirements of Regulation 11 of the Agency Workers Regulations.
- n. The Labour User shall, when requesting the services of a specific worker for a new assignment, where such worker has during a previous assignment(s) completed 12 weeks in the same role for the Labour User, and such previous assignment(s) ended more than 6 weeks before the start of the intended new assignment, demonstrate to the Labour Provider that the break between the assignments was wholly due to the needs of the Labour User's business, and was not intended specifically to break the qualifying period (as defined in the Agency Workers Regulations) of the worker.
- o. Where a worker is currently working on assignment for the Labour User, or has previously worked for the Labour User and still has a current qualifying period (as defined by the Agency Workers Regulations) regarding that role, and the Labour User requests that the worker undertakes a substantively different role, the Labour User shall confirm in writing to the Labour Provider, upon such request, the characteristics which render it a new role. Such characteristics may include but are not limited to:
 - i. different skills and competencies required;
 - ii. different pay rate applies;
 - iii. the role is at a different site;
 - iv. extra training or different qualifications are required;
 - v. different working hours apply.

Where a worker undertakes a new role for the Labour User, the Labour Provider confirms that it shall put in writing to the worker, before the commencement of the assignment, the details of the new role, and confirmation that the worker will start a new qualifying period (as defined by the Agency Workers Regulations).

- p. The Labour Provider shall, as soon as it is made aware by a worker confirm to the Labour User that the worker is pregnant. The Labour Provider shall request from any pregnant worker wishing to take time off to attend ante-natal appointments during the working hours of an assignment, a certificate from a registered medical practitioner, registered midwife, or registered nurse stating that the worker is pregnant, and an appointment card or other documentation confirming the date and time of the appointment. The Labour User, upon confirmation from the Labour Provider that such documentation has been supplied shall when appropriate allow the worker to take time off during their working hours on assignment to attend ante-natal appointments.