



Breach of AWR Policy

AWR Policy

1. What steps can an agency worker take before issuing a claim in the Employment Tribunal?

1.1 Requests for information to the agency/client

REC recommends dealing with any queries about AWR on an informal basis, please contact Tracey George, Chief Operating Officer, by phone 020 7198 6000 in the first instance, so that we can try to resolve your complaint informally. If, after this initial contact you are not satisfied please contact Jayne Morris, Chief Executive Officer. You can write to her at: jayne.morris@tpp.co.uk.

If an agency worker believes that s/he has not received his/her equal treatment rights, the Regulations allow the agency worker to request a written statement from the agency requesting information about the treatment that the agency worker has received (though s/he can only do this once s/he has completed the 12 week qualifying period).

To trigger this formal procedure, the agency worker must make the request in writing. Once the agency receives this request it will have 28 days to respond and in order to comply with Regulations the written response must include the following information:

- Relevant information relating to the basic working and employment conditions of the client's workers
- The factors the agency considered when determining the basic working and employment conditions which applied to the agency worker at the time s/he allegedly did not receive the equal treatment they claim they were entitled to receive
- Relevant information which explains the basis on which the client's comparable employee was identified and the relevant terms and conditions applicable to that employee.

If the agency does not comply with this request, the agency worker can instead request a written statement from the client as to the information about the relevant basic working and employment conditions that apply to the client's own workers, once 30 days from the date of the original request to the agency has passed.

1.2 Requests for information regarding Day One rights

If an agency worker believes that the right to access the client's collective facilities and amenities, or to receive information about relevant client vacancies has been breached, the agency worker can request information directly from the client about the access facilities and vacancies which is offered to the client's own workers. The agency worker can go directly to the client in respect of these rights without contacting the agency in the first instance.

1.3 What happens if the agency or client fails to respond to the request for information?

The failure to respond to an agency worker's request for information by either the agency or client may have serious consequences in the event that an agency worker makes a claim to an Employment Tribunal for either a failure to provide equal treatment (basic working and employment conditions) or a failure to provide access to collective facilities and amenities and vacancies. If an Employment Tribunal finds that the agency or client deliberately and without good reason failed to provide the information requested, or that any written statement given in response to an information request is evasive or equivocal, it will be able to draw an inference that the agency worker's rights have been breached.