

# Casual Worker Guidelines



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## 1. Introduction

- 1.1 A casual worker is someone who works as and when needed and has periods of employment with breaks in between where no work is performed. There will be no mutuality of obligation for either the Council to provide work or for the worker to undertake the work. There is no detriment to the worker if they choose not to accept the work offered and they are only paid for the periods when work is performed.
- 1.2 Casual workers are not employees of the Council. They have limited statutory employment rights (please refer to Appendix 2 for a comparison between the statutory employment rights of employees and workers).
- 1.3 These guidelines provide advice for managers on when and how to engage and deploy casual workers and the necessary procedures and documentation for their engagement.
- 1.4 Casual workers provide a flexible, cost effective way for the Council to fulfil certain kinds of work where the need is not constant, for example where the work is variable / seasonal or where it is difficult to predict demand due to external factors.
- 1.5 Generally speaking, the term casual work usually applies to temporary work:
- Which occurs only once, and for a short period of time, or
  - Which occurs more often but on an irregular or unpredictable basis, or
  - Where there is no obligation on the Council to offer work, and no obligation on the individual to accept it.

## 2. When to engage casual workers

- 2.1 The engagement of casual workers is appropriate when:
- The need for the work is not constant
  - Flexibility is needed
  - Workers work infrequently with large gaps in between work
  - You need to engage workers to deal with unexpected, irregular or infrequent work
  - You do not expect or need a long term, regular relationship to develop
  - You do not want to be under an obligation to offer work
  - There will be no obligation on the worker to accept the work
  - There is no guarantee of work
- 2.2 Managers must not engage casual workers when:
- Work is expected to be regular (even if the hours vary)
  - They require the worker to accept the work every time it is offered
  - They know from the outset that the individual is likely to work more than 8 weeks on a regular basis
  - A series of engagements is likely to be needed
  - Work is guaranteed

In this case, managers are advised to advertise a temporary or fixed-term contract and recruit accordingly.

### 3. Recruitment and engagement process

3.1 In accordance with the Council's Recruitment Policy, any requirement to engage a casual worker must be authorised by a Corporate Director, via completion of the [Recruitment Process Approval Form](#).

3.2 Managers must provide an evaluated job description if cover is required for an establishment post or a full list of job duties for any work for which they intend to recruit a casual worker, in order to identify the correct rate of pay.

3.3 Once authorisation is received, the casual work should be advertised on Redbridge-i.

3.4 Casual workers will be required to complete an application form and must disclose:

- Any relationship to a Council member or officer (this will be monitored in accordance with the Council's Recruitment Policy)
- Whether they have previously been a Council employee

#### Appointment of friends/relatives/partners

3.5 The engagement of a friend, relative or partner as a casual worker could constitute a conflict of interest where there is direct involvement in the management/supervision of the casual worker and should be avoided (please refer to the Council's [Guidelines on Personal Relationships at Work](#)).

3.6 It is prohibited for a relative, friend or partner of any casual worker to be involved in any way in authorising or processing any documentation concerning any aspect relating to pay, expenses or grading arrangements. If the line manager is a relative or partner, a senior manager must authorise rates of pay, hours to be worked, expense claims, etc. and not the line manager (see Guidelines on Personal Relationships at Work)

#### Ex-employees

3.7 If a manager wishes to engage an ex-employee as a casual worker, the following will apply:

- Ex-employees who are in receipt of redundancy payments may be re-engaged by the Council only where there is a clear break of 4 weeks in continuity of service (i.e. a clear calendar-month break between the termination of one period of employment and the commencement of the new period.) Managers must seek advice from HR Employment Relations before re-engaging.
- If the ex-employee is receipt of early payment of pension, the recruiting manager should seek advice from HR Employment Relations in the first instance and must obtain authorisation from their Corporate Director.

#### Essential checks before a casual worker can start work

3.8 The appointment of casual workers is subject to the following (in accordance with the Council's Recruitment Policy):

- Identity check (to establish the legal right to work in the UK)
  - References
  - Occupational Health Clearance
- 3.9 A manager may request that a casual worker be engaged before references have been obtained. However, the manager must give full reasons for their request, which must be authorised by a Head of Service/Operational Director, by completion of the Head of Service/Operational Director Sign Off Pending References Form – Casual Workers.
- 3.10 Certain posts and work activities are exempt from the Rehabilitation of Offenders Act (1974). This includes posts where services are provided for children and vulnerable adults. If a casual worker is to be engaged in a post which is exempt, or is to undertake such work activities, they will be asked to disclose any convictions they may have. A full Disclosure and Barring Service (DBS) disclosure must be obtained by the Council before they can start work.
- 3.12 Where the work is not exempted from the Rehabilitation of Offenders Act, the casual worker will only be asked to reveal those unspent convictions.

#### The casual worker letter of engagement

- 3.13 Provided that all the required checks have been completed, if the manager wishes to engage a casual worker they must notify HR Direct who will issue the [Casual Worker Letter of Engagement](#) (Appendix 1) to the casual worker on behalf of the recruiting manager.
- 3.12 The casual worker should sign and return the letter before they commence work. However, if the letter is not signed and returned, it will be assumed that the casual worker is in agreement with the contents. It will not be necessary to issue a new letter of engagement every time work is offered and accepted. However, managers should confirm details of: the work offered, the place the work is to be performed and the hours to be paid in return for the work on a particular assignment.
- 3.13 **There will be no “mutuality of obligation” between the Council and the casual workers.** Once work is offered by the Council, the casual worker will have the option of accepting the offered work, but will be under no obligation to do so. Equally, there will be no obligation on the Council to offer any work and certainly no guarantee that any work will be provided.

#### Induction and essential training

- 3.14 Managers should ensure that casual workers have an induction which includes the essential health and safety measures applicable to the work they are engaged to do. Casual workers must be adequately trained, as appropriate. Note: for civil liability purposes, the Council is liable for the actions of casual workers acting on its behalf.

## 4. Payment

- 4.1 Casual workers receive payment for actual hours worked. The hourly rate of pay will be determined by the evaluated job description for the work to be undertaken and confirmed by the manager when the casual work is offered and formally recorded in the Casual Worker Letter of Engagement (see Appendix 1).

- 4.2 Tax and national insurance contributions will be deducted as appropriate. The hourly rate (excluding holiday pay) will be no less than the National Minimum Wage.
- 4.3 The casual worker should provide bank details using the [Authorisation For Payment Of Salary By Bank Credit form](#) and this should be submitted to HR Pay and Contracts.
- 4.4 To receive payment for the hours worked, casual workers must complete a monthly Claim for Casual Work Form. This must be countersigned by their manager and submitted to HR Pay and Contracts prior to the payroll cut off date. This form should only contain the hours worked and sums claimed.
- 4.5 Payments will normally be made on a monthly basis by bank transfer on or around the 8th of each month. When the 8th of the month falls on a Saturday, Sunday or Public Holiday, the casual worker will be paid on the preceding working day.
- 4.6 Casual workers have a statutory right to holiday pay and should be advised by their manager of the current rate (**available on the Council's Intranet**). This is not to be confused with holiday leave to which they are not entitled. Holiday pay is calculated by Pay and Contracts based on the hours worked. Any period where the casual worker does not work (absence) should not be recorded on the claim form as **any form of leave as the term "leave of absence" only applies to employees.**
5. Monitoring and limiting the deployment of casual workers
- 5.1 Managers must ensure the use of casual workers is carefully and regularly monitored (at least once every 6 months). There is a risk that an employment contract will develop by default (even if this is not in writing) if the casual worker:
- Is deployed regularly and/or has a fixed pattern of work, or
  - Can demonstrate that they can rely on the availability of work, or
  - Can demonstrate the employer expects them to be available for work when the need arises
- 5.2 The worker could make a claim for full employment status and full employment rights (e.g. unfair dismissal). This is regardless of the number of hours worked. It is critical that the Council does not incur the additional cost of redundancy payments etc. associated with casual workers acquiring employee status.
- 5.3 Services should maintain their own list of casual workers and monitor their use regularly to ensure that there is no fixed and/or regular pattern of work offered and accepted as this may result in the casual worker acquiring employment status and full employment rights (please see Appendix 2). Further advice is available from HR Employment Relations.
- 5.4 Casual worker lists should be reviewed regularly; any casual workers who have not undertaken work in the previous nine months should be removed from the list.



Private & Confidential

Human Resources Service

[*insert name*]  
[*insert address*]

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Please ask for: «Name»  
Direct line: «Direct\_Line»  
Fax: 020 8708 3973  
Email: «Email»  
Our ref: «OUR\_REF»/HRD  
Your ref:  
Date

Dear [*insert name*]

Re: Casual Worker Letter of Engagement

This letter confirms the terms of your engagement from time to time by the Council as a casual worker.

*If pending satisfactory references and/or DBS disclosure insert following:*

However, please note that this is subject to the Council receiving:

- References which are satisfactory to the Council
- DBS (Disclosure and Barring Service) disclosure and clearance

Your current assignment is to the post of – [*insert job title*].

You will only be paid for hours that you work. Your rate of pay will be [*insert pay rate per hour*]. To receive payment for the hours worked you must complete a claim form, authorised by your manager/supervisor and submit this to HR Pay and Contracts prior to the payroll cut-off date (please see attached timetable). Payments will be subject to deduction of income tax and National Insurance.

Payments will normally be made on a monthly basis by bank transfer on or around the 8th of each month. When the 8th of the month falls on a Saturday, Sunday or Public Holiday, you will be paid on the preceding working day.

You will not be an employee of the Council and at no time will there be any mutuality of obligation between you and the Council. You may be offered work by the Council at its discretion. There is no obligation on the Council to offer work to you and you are not obliged to accept any work that is offered to you.

As regards the performance of your services:

You will report to your manager/supervisor or as otherwise specified.

At all times, you will conform to health & safety rules and procedures and other relevant Council rules, regulations and codes of practice as instructed by your manager and as they apply to you as a casual worker providing services to the Council.

You have a statutory right to holiday pay. Your manager will advise you of the current rate of your paid holiday entitlement per hour worked. This is inclusive of all bank holiday entitlements for which no additional payment is therefore due.

There is no entitlement to: overtime, enhanced rates of pay, occupational sickness pay, maternity leave, or any other benefits.

You will be engaged on the understanding that you are legally entitled to work in the UK without any additional immigration approvals. You must notify the Council immediately if you cease to be legally entitled to work in the UK at any time.

If the work you are offered is exempt from the Rehabilitation of Offenders Act 1974 (e.g. working with children or vulnerable adults) you will be required to undergo a Disclosure and Barring Service (DBS) check. You will only be permitted to undertake this work if you have a valid, current DBS certificate appropriate to the role you will be undertaking. It is also a requirement that should you be subject to any criminal conviction or caution during the course of your employment with the Council that you have not previously disclosed you must report this at the time of the conviction or caution to your line manager.

**If the work you are offered is designated as 'safety critical', you will be prohibited from consuming alcohol at any time whilst at work, including all breaks, in accordance with the Council's Alcohol, Drugs and Substance Misuse Policy. Additional arrangements apply within the Highways and Cleansing Service area, including random drug/alcohol testing, testing for cause and post-incident testing.**

The assignment may be terminated at any time by either party. If you accept an assignment of work and subsequently decide you do not wish to continue working, you should inform your manager, giving as much advance warning as possible. If the Council decides to cancel an assignment, for whatever reason, your manager will notify you as soon as possible. Thereafter the Council is under no obligation to offer you any further work and you are under no obligation to accept any further work that is offered to you.

Signed:  
(For and on behalf of The Council)

Date: *[insert date]*

*[insert name and job title of HRD Officer]*

I have read, understood and accept the above terms and conditions:

Signed:  
(Casual Worker)

Date:

Note: if you do not sign and return this document, it will be assumed that you are in agreement with the contents.

*[insert name]*

## Comparison of Statutory Rights of Employees and Casual Workers

Employee Rights	Casual Worker Rights
To receive national minimum wage.	To receive national minimum wage.
To receive statement of particulars of employment	
To receive an itemised pay statement (if there is a holiday pay component this should be clearly identified in writing).	
Not to have unauthorised deductions made from payments.	Not to have unauthorised deductions made from payments.
To receive statutory sick pay (subject to SSP rules).	To receive statutory sick pay (subject to SSP rules).
Not to be discriminated against, e.g. on the grounds of sex, transgender status, race, disability, sexual orientation, religion or belief, marital or civil partner status, or age.	Not to be discriminated against, e.g. on the grounds of sex, transgender status, race, disability, sexual orientation, marital or civil partner status, religion or belief, or age.
Statutory right to paid annual leave, a maximum 48-hour working week and rest breaks under the Working Time Regulations	Statutory right to holiday pay, a maximum 48-hour working week and rest breaks under the Working Time Regulations.
To take Ordinary and Additional Maternity Leave (subject to other qualifying conditions).	Statutory right to maternity pay (subject to SMP rules).
Time off (with pay) for ante-natal care.	
To receive statutory notice of termination.	
To claim unfair dismissal.	
To take time off (with pay) to carry out public duties.	
To take time off (with pay) to care for a dependant.	
To work in a safe workplace, and other rights under health and safety legislation.	To work in a safe workplace, and other rights under health and safety legislation.
To be safeguarded when making a protected disclosure (whistle blowing).	To be safeguarded when making a protected disclosure (whistle blowing).