

Employment Rights of a Casual Worker

Employment rights are mainly determined by employment status. Both employees and workers are entitled to statutory employment rights, including the right to:

- receive the National Minimum Wage
- protection against unlawful deduction from wages
- a minimum period of paid holiday (annual leave)
- minimum length of rest breaks
- not to work more than 48 hours on average per week or to opt out of this right if they choose
- protection against unlawful discrimination (including less favorable treatment on the grounds of part-time status)
- protection for 'whistle blowing'
- work in a safe workplace

Depending on earnings and other factors such as continuous employment service they may also be entitled to statutory and occupational:

- Maternity, Paternity or Adoption Pay
- Sick Pay

Casual workers undertake work for the Council on a mutually agreed 'as and when' basis. Such work is on the basis that the Council is not obliged to offer work nor is the casual worker obliged to accept any work offered.

Managers must be aware that every consecutive week of work builds continuity of employment and this can also be achieved by the regularity of the work undertaken by the worker.

A worker who works each week, regardless of the number of hours worked, will accrue continuous service e.g. if a worker works for 4 consecutive weeks in one team and then works for another 8 consecutive weeks in a different team, they are entitled to 6.4 days of accrued annual leave (based on entitlement of 28 days). Adding on the leave entitlement at the end of the 8 week placement means the worker must have a break of at least 13.4 consecutive days (6.4 days annual leave and 7 days break) before being re-engaged on a casual basis. Accrued annual leave does not constitute a defined service break.

Any unbroken continuous service accrued as a casual worker must be counted towards an employment contract, should the worker be re-engaged as a fixed term or permanent employee directly following casual work.

The maintenance of the casual working relationship depends upon the length and regularity of working periods together with the gaps between work periods. If there is no mutuality of obligation and the worker is free to refuse work at any time without any negative consequences, the individual is not considered to be an employee. However, managers must not unintentionally affect the employment status of the

casual worker by making commitments of regular work out with the period that the worker has been engaged to cover. The Council's policy is 'no more than 12 consecutive weeks' work.