

SUPPLY TEACHERS: PAY, CONDITIONS & WORKING TIME

NEU Guidance for members in England & Wales

What should I expect to be paid as an agency supply teacher? What should I be paid for supply work of less than a day in duration? What happens if a school wants to offer me a permanent job? These and many other key questions are covered in this introductory and invaluable guide to supply teaching.

What we say

When you read through this document you may have questions about what happens in the particular schools you work in, and there may be collective issues that affect other members. In most circumstances, you should initially discuss the matter with your local secretary, as they will know whether similar concerns have been raised by other members.

Although you may sometimes feel that you are the only person affected by or concerned about a particular issue, in reality this is seldom the case. Any difficulties you may experience are likely to be shared by other supply teachers in your area and, as a member of the NEU, you have the advantage of being able to act collectively with your colleagues. This should give you the confidence of knowing that you have the weight of the Union behind you.

AGENCY SUPPLY TEACHERS

What should I expect to be paid as an agency supply teacher?

Supply teachers employed by or through agencies are generally not employed by the school, academy or local authority - so they are not covered by the pay provisions of the School Teachers' Pay and Conditions Document (STPCD) or the equivalent arrangements in Wales. Their pay is determined by their agency - and agency pay rates are generally lower than the pay rates for teachers in regular employment and supply teachers directly employed by schools. A 2019 NEU supply teacher survey found that over half were paid less than £125 per day, whilst only 9% were paid more than £150 per day.

To put these figures in context, a daily rate of £100 means that, even if the teacher works every day of the school year, they earn around £4,000 less than a newly qualified teacher in a full-time post. Even a daily rate of £150 pays an experienced supply teacher at best some 10% less than a teacher with 5 years' experience paid at the Main Pay Range maximum.

More worryingly, pay rates can vary between placements. Pay often varies according to the length of the assignment, may vary by subject and certainly varies regionally. Unfortunately some schools have begun to contribute to this by seeking to bargain with agencies. Rather than reduce their own margins, the agencies cut the pay of the supply teachers.

Can I access the Teachers' Pension Scheme as an agency supply teacher?

Employment by or through supply agencies is not pensionable under the Teachers' Pension Scheme (TPS) because supply agencies are not currently permitted to participate in the TPS. Supply teaching employment is only pensionable under the TPS when the supply teacher is employed directly by a school, academy or local authority. The NEU is pursuing this issue in order to secure equal access to the TPS for all teachers working in state funded schools.

Agencies are, however, required to offer a workplace pension scheme to the workers on their books. All employees aged between 22 and State Pension Age and earning over £10,000 must be 'auto-enrolled' into the workplace pension scheme (they can however then opt out if they choose). Other supply teachers can still *choose* to join their employer's workplace pension scheme even if their earnings are lower than this threshold, and, if they earn more than £512 per month, the employer has to pay a contribution. Most agencies must pay a minimum pension contribution of 3 per cent of "qualifying earnings" (the amount an employee earns before tax between £6,136 and £50,000 a year) while the teacher pays a minimum of 5 per cent.

Those working for different agencies on short term assignments may find their enrolment in a workplace pension is postponed for up to three months where there are concerns that their annual income will not meet the earnings threshold. Agency teachers may also end up with several workplace pension 'pots' depending on their working patterns and the number of agencies they use.

What is an 'umbrella company'?

An umbrella company is a company that acts as an employer to agency workers, such as supply teachers. The teacher is legally employed by the umbrella company, not the agency. The umbrella company will usually pass on to the teacher various costs such as the employer's National Insurance contributions and the umbrella company's fee. Revised tax rules applying from April 2016 mean that supply teachers working through an umbrella company can no longer claim tax relief on home to work travel and subsistence expenses.

Many supply agencies will try to insist that supply teachers are employed by umbrella companies. You do not, however, have to agree to this and should ask to be paid by the agency instead on a PAYE basis if you wish.

The NEU strongly advises members to be fully informed before entering into any formal contractual relationship with such companies and also strongly advises members against working as a supply teacher under "limited company" arrangements.

What are the Agency Worker Regulations (AWR)?

The Agency Worker Regulations 2010 apply to teachers who undertake supply work through employment agencies or umbrella companies. They give agency teachers certain rights from day 1 of their assignment at a school - including the right to be informed of permanent vacancies with the school. After 12 weeks in the same assignment, they give agency teachers the right to the same 'basic' pay and conditions as if they had been employed directly by the employer as a supply teacher (local authority, school governing body or academy trust). These 'basic' pay and conditions cover rates of pay, hours of work and annual leave - but not other benefits e.g. sick pay, pension or maternity pay.

The 12 weeks must be continuous, although a break of up to six weeks for any reason 'pauses' the clock. Some other 'breaks' are also allowed, such as annual leave, school closures, sickness and maternity/parental leave. Where an agency supply teacher is placed in a series of schools in which the local authority is the employer, this may create continuity for the purposes of the AWR.

The teacher's pay rate should then be assessed according to the school's pay policy in the same way as for a directly employed supply teacher (although this does not now necessarily guarantee a particular pay rate).

What are “guaranteed work” contracts?

Many agencies offer supply teachers “guaranteed work” contracts of employment - also known as “permanent” contracts, “pay between assignments” contracts or “Swedish Derogation” contracts. These claim to offer a commitment to provide regular work and to pay the supply teacher even on days when no work is available.

Entitlements to equal pay under the Agency Worker Regulations do not apply to agency supply teachers employed under such contracts, provided that the contract includes a number of specific terms. The arrangements will usually require supply teachers thus engaged to guarantee their availability at all times. The usual pay rate under such contracts is generally lower than otherwise and agencies can withdraw from such contracts if no work has been available for a certain period of time.

The NEU opposes the use of such contracts, although they are lawful and do not breach the AWR. NEU members considering such employment are strongly advised to read the terms and conditions very carefully, as penalties may apply in the event that they are unable to work on any given day, e.g. as a result of illness.

What about “zero hours” contracts?

Zero hours contracts are the most extreme example of precarious employment for teachers. There is no legal definition of a zero-hours contract. Their terms vary but what they have in common is that there is no guarantee of work or pay from one week to the next. They are encountered in the school and college sector, particularly in ancillary education services.

How can I obtain more information on working via supply teacher agencies?

The NEU has published separate, more detailed guidance on a number of areas relevant to working as an agency supply teacher, including: *The Agency Worker Regulations*; *‘Guaranteed Work’ Contracts*; *Umbrella Companies and Limited Companies*; and *Agency Supply Teachers and Workplace Pensions*.

What happens if a school wants to offer me a permanent job?

Where a teacher on a longer term supply engagement makes a positive impression, the school may want to offer that teacher a permanent job. Supply agencies are permitted to charge transfer or ‘finder’s’ fees to schools in such circumstances. Two important conditions, however, are that:

- The school must be given the option in the contract with the agency to decide, at the point when it decides to offer the teacher a permanent job, either to pay the fee or to continue employing the teacher through the agency for a set period after which it will not have to pay the fee.
- Transfer fees can only be charged if the transfer takes place within the later of 14 weeks from the start of the first assignment and 8 weeks from the end of any assignment (see examples below). If there has been more than one assignment with a break of more than six weeks between assignments, the later assignment is then taken as the first assignment.

Although transfer fees are often cited as a major obstacle to supply teachers gaining permanent employment, the conditions do mean that transfer fees are slightly less likely to be enforceable in the schools sector than other areas of employment.

Calculating when an agency can no longer charge a transfer fee

Examples:

Placement 1: Teacher A accepts an agency assignment from Monday 2 January to Friday 27 January (4 weeks). Fourteen weeks from the start of the assignment is 10 April. Eight weeks from the end is 24 March. In this case the later of the two dates is 10 April. The agency can charge a transfer fee at any point up to 10 April. After that date, no charge can be made.

Placement 2: Teacher B fulfils an assignment from Monday 6 February to Friday 14 April (10 weeks). Fourteen weeks from the start of the assignment is 15 May. Eight weeks from the end is 9 June – the later of the two dates in this example. No transfer fee can therefore be charged after 9 June.

Remember that if there has been a break of more than six weeks between an agency supply teacher's assignments for a school, this will have the effect of breaking continuity for the purpose of determining the 14-week period. In such cases, the first day after the gap ends becomes the starting point of the 14 weeks.

DIRECTLY EMPLOYED SUPPLY TEACHERS

What should I be paid as a supply teacher employed by a school or local authority?

Supply teachers employed directly by a local authority maintained school or by a local authority (eg by or via an LA supply pool) **must be employed and paid according to the provisions of the School Teachers' Pay and Conditions Document (STPCD)**.

The STPCD gives a right to a daily pay rate based on the pay rate for teachers in regular employment at the school. It states that *"Teachers employed on a day-to-day or other short notice basis [ie supply teachers] must be paid ... on a daily basis calculated on the assumption that a full working year consists of 195 days, periods of employment for less than a day being calculated pro rata"*.

This has generally led to better pay than for agency supply teachers, but recent changes to the STPCD mean that supply teachers, like other teachers taking up a post at a new school, are no longer entitled by law to be paid at a minimum pay rate reflecting their experience and pay in their previous posts. Each school should, however, have a pay policy setting out how pay for new appointees is determined. If the policy provides for pay portability from the teacher's previous post, this should also apply to supply teachers unless the policy provides otherwise.

Appendix 1 sets out daily pay rates based on the pay scales recommended by the NEU and other teacher unions, according to the rules set out above. (Note - supply teachers do not receive any pay during holiday periods. As full-time teachers work for 195 days a year, this daily pay rate of 1/195 includes an element for 'holiday pay').

What should I be paid for supply work of less than a day in duration?

The NEU recommends an hourly rate of 1/975th of annual pay for each hour of teaching or other work, while the DFE has recommended that any hourly rate of pay should be on the basis on a day of 6.48 hours (1265/195) or the total length of the school's pupil day (see section on working time arrangements below).

Can supply teachers employed by a school or local authority receive pay progression?

The STPCD provides that all teachers should be considered for pay progression each year and are entitled to apply for payment on the Upper Pay Range. However, the length of supply assignments and the absence of appraisal arrangements are likely to obstruct supply

teachers' access to pay progression and the new pay entitlement will not be protected when a new engagement begins.

Some supply teachers will, however, be in a position to seek and secure pay progression - for example, when employed via an LA supply pool or on a recurring basis in the same school. In such cases there is no reason why pay progression assessments cannot be carried out. Although supply teachers are not covered by statutory appraisal requirements, the STPCD states that the employer carrying out the pay assessment should take the pay decision based on the evidence available to inform the pay decision, which could be assisted by including the teacher in some form of appraisal appropriate to the working circumstances.

What are my working time arrangements as a supply teacher employed by a school/LA?

The STPCD does not specify the length of the supply teacher's working day. In some cases, employers seek to offer supply teachers an hourly rate rather than a daily rate, even where the supply teacher has taught for the full pupil day. Do not accept an hourly rate when you should be entitled to the daily rate - it will lead to lower pay.

What are my pension rights if working directly for a school or local authority?

Since 1 January 2007, supply teaching engagements for teachers directly employed by an authority or school have been automatically pensionable under the Teachers' Pension Scheme, with the contributions made by the teacher and the employer, unless the teacher decides to opt out of the scheme.

Do I have any entitlements to sick pay or maternity pay as a supply teacher?

Supply teachers (whether agency or otherwise) are not covered by the contractual sick pay or maternity pay provisions but may be entitled to statutory sick pay or maternity pay rights in certain circumstances. Please see the advice on statutory sick pay and rights of pregnant workers in the Agency Worker Regulations guidance at www.neu.org.uk.

What about supply teaching in academies?

Supply teachers employed directly by non-maintained schools - such as academies, free schools and independent schools - are employed on the terms determined by that employer. The pay and conditions may be in line with national pay and conditions in many such schools, but the employer can make alternative provisions. The teacher will, however, be entitled to join the TPS.

What are the differences between long and short term assignments?

Typically, supply teachers engaged on a short term basis - for a single day or only a few days - might expect to carry out supervision and teaching of classes using materials set by the absent teacher or his or her line manager. These might be marked in class, or alternatively collated for marking by the absent teacher once they have resumed teaching duties. Most supply teachers engaged on a short term basis are unlikely to be expected to carry out duties beyond this basic level of supervision and teaching, with little or no planning or assessment required or expectations to attend meetings - but the result may be that they will be paid less than a supply teacher whose work at the school is of a longer duration.

Long term supply teachers will usually expect to fulfil most if not all of the duties of the substantive post holder. As a result, they will typically plan, deliver and mark lessons according to the appropriate scheme(s) of work, be responsible for registration, and participate in non-teaching duties such as following up disciplinary issues, writing reports, and attendance at staff meetings and parents' evenings. Consequently, such teachers should legitimately expect to be paid at a higher rate than for short term engagements. Long term supply teachers covering for a particular absent teacher should also enjoy comparable working conditions to the person they are covering for - for example they should have the protection of 'rarely cover provisions', rather than being expected also to provide general cover, and have the right to PPA time.

Where should I go for further advice and support?

NEU supply members with concerns or problems relating to their employment conditions should in the first instance contact the NEU AdviceLine, or the NEU Wales office instead. Their details may be found at <https://neu.org.uk/contact-us>.

FURTHER INFORMATION

Further information and guidance for supply teachers can be found on the NEU website, www.neu.org.uk.

You can join the NEU on-line at <https://neu.org.uk/join> or on 0345 811 8111 (local rate) or you can complete an application form and return it to National Education Union, Hamilton House, Mabledon Place, London WC1H 9BD.

We want supply members to work together to take forward our work for supply teachers. Contact the NEU locally to find out about participating in your local association and join with other members in your area to tackle common problems. Contact details are on your membership credential and on the NEU website at <https://neu.org.uk/contact-us>.

**National Education Union
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APPENDIX 1

DAILY PAY RATES FOR SUPPLY TEACHERS FROM 1st SEPTEMBER 2019

The table below sets out the daily rates for supply teachers employed by local authorities or schools at each pay scale point, calculated on the basis of 1/195 of the appropriate full-time pay rate. They are provided for guidance. They also provide an indication of the gap between agency pay rates and those which would apply if teachers did not have to work via agencies.

ENGLAND (excluding the London area)

INNER LONDON

	Annual Pay	Daily Rate	Annual Pay	Daily Rate
MAIN PAY RANGE				
M1 min	£24,373	£124.99	£30,480	£156.31
M2	£26,298	£134.86	£32,070	£164.46
M3	£28,413	£145.71	£33,741	£173.03
M4	£30,599	£156.92	£35,499	£182.05
M5	£33,010	£169.28	£38,230	£196.05
M6 max	£35,971	£184.47	£41,483	£212.73
UPPER PAY RANGE				
U1 min	£37,654	£193.10	£45,713	£234.43
U2	£39,050	£200.26	£47,960	£245.95
U3 max	£40,490	£207.64	£49,571	£254.21

OUTER LONDON**FRINGE AREA**

	Annual Pay	Daily Rate	Annual Pay	Daily Rate
MAIN PAY RANGE				
M1 min	£28,355	£145.41	£25,543	£130.99
M2	£30,113	£154.43	£27,468	£140.86
M3	£31,976	£163.98	£29,581	£151.70
M4	£33,956	£174.13	£31,775	£162.95
M5	£36,836	£188.90	£34,179	£175.28
M6 max	£40,035	£205.31	£37,152	£190.52
UPPER PAY RANGE				
U1 min	£41,419	£212.41	£38,797	£198.96
U2	£42,951	£220.26	£40,189	£206.10
U3 max	£44,541	£228.42	£41,635	£213.51

WALES

Annual Pay Daily Rate

MAIN PAY RANGE

M1 min	£24,906	£127.72
M2	£26,298	£134.86
M3	£28,413	£145.71
M4	£30,599	£156.92
M5	£33,010	£169.28
M6 max	£35,971	£184.47

UPPER PAY RANGE

U1 min	£37,654	£193.10
U2	£39,050	£200.26
U3 max	£40,490	£207.64

Note: Supply teachers employed directly by academies are not covered by the STPCD and can be paid at whatever rate the academy determines. The NEU nevertheless advises the same pay rates as set out above. Points M2 to M5 and U2 are no longer mandatory points but are used by the large majority of schools and academies.