

HOLIDAYS AND HOLIDAY PAY

Supply teachers have a vital role in raising and maintaining high educational standards in schools. Campaigning to secure professional entitlements for supply teachers is a key priority of the NASUWT, together with securing decent pay and working conditions for all supply teachers.

Entitlement to holiday pay

Supply teachers employed by local authorities, schools and agencies are legally entitled to 5.6 weeks' paid holiday per year. Teachers who are self-employed are not entitled to annual leave.

Regulations 13 and 13A of the Working Time Regulations (1998) confirm that a worker is entitled to 28 days' annual leave (5.6 weeks) in each leave year. Regulation 15 says that a worker's employer may require the worker to take all or part of the leave to which he is entitled on particular days by giving notice to the worker. This is illustrated in relation to teaching where the pattern of holidays is predetermined by the periods of school closure.

Where a teacher works on a full-time basis (i.e. a five-day week), they must receive a minimum of 28 days' paid annual leave per year. This is calculated on the basis of multiplying the teacher's normal working week (i.e. five days) by the annual statutory leave entitlement of 5.6 weeks. Where an individual works on a part-time basis, the entitlement to paid annual leave is calculated pro-rata.

Statutory paid holiday entitlement is limited to 28 days. Where an individual works six days a week, they will still only be entitled to 28 days' paid holiday.

The right to holiday pay accrues from the first day of employment.

The holiday entitlements of supply teachers employed via an agency are further underpinned by the provisions under the Agency Worker Regulations (2010) and the Working Time Regulations.

Transparency

Holiday pay for a supply teacher should be identified on the teacher's payslip. Whilst the amount relating to the teacher's holiday entitlement may be identified, it

is not additional to the teacher's take-home pay. The payslip should itemise the amount of gross pay which relates to holiday pay.

Rolled-up holiday pay

Payments on account of holiday pay can be set off against an entitlement to holiday pay because they are additional to remuneration to work done, providing that they are paid transparently and without deductions as holiday pay. However, employment agencies should not seek to cut or reduce the daily or hourly rate in order to compensate for paying holiday pay. Where an agency seeks to reduce pay levels by deducting for holidays, members should contact the NASUWT immediately.

Supply teachers paid on STPCD (Maintained and Local Authority)

The School Teachers' Pay and Conditions Document (STPCD) defines the pay, conditions of service (including working time) and professional duties of teachers. It is a national pay framework and it is statutory and contractual. The STPCD describes supply teachers as 'short notice' teachers and stipulates that they must be paid as follows:

44.1 Teachers employed on a day-to-day or other short notice basis must be paid in accordance with the provisions of this Document 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.

Paragraph 44.1 therefore requires that supply teachers employed under the provisions of the STPCD must be paid in accordance with the pay ranges and pay scales that apply to other teachers. In determining the daily rate for the supply teacher, the school/authority must calculate this on a pro rata basis on the assumption that the teacher's working year consists of 195 working days.

$$\text{Daily rate} = \frac{\text{£xx,xxx (i.e. annual salary)}}{195 \text{ days}}$$

The STPCD provisions relating to supply teachers also state that:

44.2 A teacher to whom paragraph 44.1 applies and who is employed by the same authority throughout a period of 12 months beginning in August or September must not be paid more by way of remuneration in respect of that period than would have been paid had the teacher been in regular employment throughout the period.

Supply teachers who work for commercial agencies

The Agency Worker Regulations provide entitlements to agency supply teachers, after a 12-week qualifying period, to the same basic working and employment conditions as an equivalent worker employed directly by the hirer (e.g. school) to do the same job. The Regulations also make clear that this entitlement extends to pay, working time and holidays.

A supply teacher, on completing the 12-week qualifying period, is entitled to be paid the same as a comparable employee at the school (for agency supply teachers deployed in maintained and local authority schools, pay would be in accordance with paragraph 44 of the STPCD) and would be entitled to the same working time and annual leave as other teachers who are equivalent workers under the regulations.

The NASUWT has published separate advice on supply teachers' pay. An agency supply teacher deployed in a maintained or local authority school should receive a daily rate of pay calculated by dividing the relevant annual salary by 195 (number of days to be worked in the year). This would ensure that the supply teacher would be in receipt of an element of rolled-up holiday pay for each day worked.

In this case, the rolled-up holiday pay would be in respect of annual leave and not merely statutory leave. As the rolled-up holiday pay would effectively be for 65 days' paid leave (260 working days per year – i.e. 52 weeks in the year x 5 working days per week – minus 195 days), it would fully offset the value of any claim for 28 days' statutory holiday pay. Therefore, the supply teacher would not be entitled to an additional 5.6 weeks' paid annual leave in circumstances where they are paid as an equivalent worker.

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