



Review Sheet



Last Reviewed  
01 Apr '23



Last Amended  
01 Apr '23



Next Planned Review in 12 months, or  
sooner as required.

Business impact



Changes are important, but urgent implementation is not required, incorporate into your existing workflow.

Reason for this review

Scheduled review

Were changes made?

Yes

Summary:

This policy governs the status of casual workers and when they should and should not be used. Further guidance has been provided on the calculation of holiday pay and holiday entitlement. References have been reviewed and updated.

Relevant legislation:

- Working Time Regulations 1998
- National Minimum Wage Regulations 2015
- Employment Rights Act 1996
- Data Protection Act 2018
- UK GDPR

Underpinning knowledge - What have we used to ensure that the policy is current:

- Author: Government, (2018), *Employment status*. [Online] Available from: <https://www.gov.uk/employment-status> [Accessed: 4/6/2021]
- Author: ACAS, (2018), *Zero-hours contracts*. [Online] Available from: <https://www.acas.org.uk/index.aspx?articleid=4468> [Accessed: 4/6/2021]

Suggested action:

- Share 'Key Facts' with all staff
- Develop training sessions for relevant staff
- Ensure the policy is discussed in planned supervision sessions with relevant staff

Equality Impact Assessment:

Commenciz Ltd have undertaken an equality analysis during the review of this policy. This statement is a written record that demonstrates that we have shown due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations with respect to the characteristics protected by equality law.



## 1. Purpose

- 1.1 To effectively manage the engagement of casual workers.
- 1.2 To address short term staffing needs in order to ensure that Commenciz Ltd continues to provide high levels of service to Service Users.
- 1.3 This policy outlines the procedures to be followed when engaging a casual worker.
- 1.4 To support Commenciz Ltd in meeting the following Key Lines of Enquiry:

**Key Question**

**Key Lines of Enquiry**

EFFECTIVE	E2: How does the service make sure that staff have the skills, knowledge and experience to deliver effective care and support?
SAFE	S3: How does the service make sure that there are sufficient numbers of suitable staff to support people to stay safe and meet their needs?

- 1.5 To meet the legal requirements of the regulated activities that {Commenciz Ltd} is registered to provide:
  - Working Time Regulations 1998
  - National Minimum Wage Regulations 2015
  - Employment Rights Act 1996
  - Data Protection Act 2018
  - UK GDPR



## 2. Scope

- 2.1 The following roles may be affected by this policy:
  - All staff
- 2.2 The following Service Users may be affected by this policy:
  - Service Users
- 2.3 The following stakeholders may be affected by this policy:
  - Family
  - Local Authority
  - NHS



## 3. Objectives

- 3.1 To ensure that the Management Team is aware of the circumstances in which they may use casual workers and when they must opt for an alternative resource.
- 3.2 To ensure that levels of care and safety are maintained.



### 4. Policy

**4.1** Casual workers are not employees and are used on an "as-and-when" basis to cover a shortfall in existing staff resource. Casual workers are entitled to receive at least the National Minimum Wage, Statutory Sick Pay (SSP) and the appropriate rest breaks under the Working Time Regulations (please see the Working Time Regulations Policy and Procedure for more details).

**4.2** Commenciz Ltd acknowledges that casual workers can make a valuable contribution to the smooth running of the business by providing necessary flexibility.

**4.3** Commenciz Ltd agrees to casual worker engagement in certain limited circumstances and for limited periods only, in particular to provide cover for the absence of permanent staff or for fluctuations in workload often required at short notice. Casual workers must not be used to cover long-term sickness absence or family-related absence and must not be offered regular work.

**4.4** Casual workers must be provided with a casual worker agreement on or before the first day of their first engagement with Commenciz Ltd. For a template casual worker/zero hours worker agreement please see the Self Employment and Zero Hours Contracts Policy and Procedure.

**4.5** This policy does not form part of any contract of employment and may be amended at any time.



## 5. Procedure

### 5.1 Casual workers may only be used:

- To cover for short-term sickness or holiday absence of permanent staff
- To prevent the need for excessive overtime work by permanent staff
- To provide additional support in the event of peak workloads
- To prevent or eliminate excessive backlogs of work; or
- To work on a specific project or task

A casual worker must not be offered regular work. Preferably, casual workers must not be engaged for any extended period at all and must be used simply to fill in where there is an unexpected shortfall in the numbers of staff required. Commenciz Ltd will monitor the use of casual workers and ensure that there is no regular pattern of work or, if a regular pattern of work is required, will consider whether a permanent vacancy in fact exists.

**5.2** Managers wishing to use the services of a casual worker must carefully assess the need for a casual worker to ensure that it is genuine and can be justified.

**5.3** Managers must carry out the full normal recruitment process as they would for a permanent employee, including a DBS check. This is to ensure that the casual worker is of an appropriate level and character to be able to step in where needed, if there is a shortfall in permanent staff. However, this does not mean that the individuals are employees. Commenciz Ltd is required to ensure that casual workers meet all regulatory requirements.

**5.4** Casual workers remain subject to the policies and procedures at Commenciz Ltd and, in the event of any breach of any policies or procedures or for any other reason, Commenciz Ltd may choose to not continue to offer a casual worker any engagements.

**5.5** Casual workers work engagement to engagement, as-and-when needed. They do not accrue continuous service and each engagement is separate.

**5.6** All casual workers are entitled to 5.6 weeks' paid holiday (full-time equivalent) under the Working Time Regulations. Holiday entitlement for casual workers can be calculated as follows:

- a) Holiday entitlement will depend on the number of hours actually worked and be pro-rated on the basis of a full-time equivalent; or
- b) Casual workers will accrue holiday leave for each hour that they work at the rate of 12.07% per hour. Casual workers will receive this in addition to their salary payment and this will be shown separately on the casual worker's pay slip.

If Managers are still unclear about how to calculate holiday entitlement for casual workers, they should take advice from payroll.

**5.7** Commenciz Ltd will ensure that all casual workers have details of the number of hours paid shown clearly on their payslips. In the event that there are different rates of pay, Commenciz Ltd will ensure that the pay slips show an itemised list of the hours worked for different rates of pay. If there is a single rate of pay, then a single combined figure may be shown. Payslips may be provided in either hard copy or electronic form.

**5.8** Casual workers will be engaged on the Casual Worker Agreement set out in the Self Employment and Zero Hours Contracts Policy and Procedure.

**5.9** Casual Workers' personal data must be stored in line with GDPR requirements and the retention schedule at Commenciz Ltd adhered to.



## 6. Definitions

### 6.1 Worker

- An individual who has entered into or works under:
  - A contract of employment; or
  - Any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual
- For the purposes of this policy, a worker is not an employee.



## Key Facts - Professionals

Professionals providing this service should be aware of the following:

- Workers under this policy are not employees given that they do not work under a contract of employment and are able to reject an offer of work
- Workers must not be used unless they are approved by management and are assessed as having the appropriate expertise and skills
- Workers are entitled to the National Minimum Wage, SSP and holiday pay. In addition, workers are entitled to appropriate leave and rest breaks under the Working Time Regulations



## Key Facts - People affected by the service

People affected by this service should be aware of the following:

- Casual workers will only be used when no other alternative is available to ensure that high levels of care are maintained
- Commenciz Ltd appreciates that you may feel some disruption to your usual routine or expectations when casual workers are used and Commenciz Ltd will, therefore, keep this use to the minimum required



## Further Reading

As well as the information in the 'underpinning knowledge' section of the review sheet we recommend that you add to your understanding in this policy area by considering the following materials:

**Please see the Self Employment and Zero Hours Contracts Policy and Procedure for a copy of a casual worker agreement.**

**CQC - Regulation 18: Staffing:**

<https://www.cqc.org.uk/guidance-providers/regulations-enforcement/regulation-18-staffing>

**Carehomeprofessional.com - Private sector care workers three times more likely to be on zero hours contracts, GMB finds:**

<https://www.carehomeprofessional.com/private-sector-care-workers-three-times-more-likely-to-be-on-zero-hours-contracts-gmb-finds/>



### Outstanding Practice

To be 'outstanding' in this policy area you could provide evidence that:

- Commenciz Ltd takes care to properly assess where casual workers may be required and to determine their appropriate level of skill to ensure that service levels for Service Users remain high
- Commenciz Ltd treats casual workers fairly and ensures that all obligations are met that are owed to them



### Forms

Currently there is no form attached to this policy.