

Knightsbridge AMS Limited

Agency Guide to AWR

What is AWR?

The Agency Workers Directive was implemented in the UK on 1 October 2011 through the Agency Workers Regulations 2010. The purpose of the Directive is to provide temporary agency workers with equal treatment, in terms of basic working and employment conditions, as they would be entitled to, had they been employed directly to do the same job. These rights are as follows:

Day 1 rights for all agency workers:

If you hire agency workers, you must ensure that they have access to facilities (such as canteen, childcare facilities, etc) and can access information on your job vacancies from the first day of their assignment.

After 12 weeks in the same job:

The equal treatment entitlements relate to pay and other basic working conditions (annual leave, rest breaks etc) these come into effect after an agency worker completes a 12 week qualifying period in the same job with the same hirer.

This guide contains all the documentation needed to allow you as the agency to manage the changes brought out by the regulations.

If you already have your own documentation, that's great, please send us a copy of the information for us to keep on record

Knightsbridge AMS Limited

ANY QUESTIONS? CALL ONE OF OUR FRIENDLY TEAM TODAY ON 01274 288848

info@knightsbridgeams.co.uk/ [www://knightsbridgeams.co.uk/](http://www.knightsbridgeams.co.uk/)

About The Guide & Enclosed Documents

The Agency Workers Directive was implemented in the UK on 1 October 2011 through the Agency Workers Regulations 2010. The purpose of the Directive is to provide temporary agency workers with equal treatment, in terms of basic working and employment conditions, as they would be entitled to, had they been employed directly to do the same job. These rights are as follows:

The first set of documents are to be used prior to the assignment start date to establish the workers' AWR status and rights.

DAY 1 RIGHTS DECLARATION

We have included this checklist in the guide as an outline of Day 1 rights. As you know, it is the Hirer's duty to provide these rights in any event. We agree for you to supply the Hirer with a copy of this checklist for their use.

AGENCY DECLARATION FORM

This form confirms that you are satisfied that the end hirer is adhering to Day 1 rights for the Agency worker

ASSIGNMENT DETAIL LIST

This document is designed to provide us with the basic assignment details. We are required to log these details on our system to allow us to monitor assignment length and manage the AWR 'clock' effectively.

CONFIDENTIALITY AGREEMENT TEMPLATE

We advise that confidentiality agreements are put into place between yourself and the hirer. These are to protect all parties. We are also prepared to enter into a confidentiality agreement with yourselves should you require.

This guide contains all the documentation needed to allow you as the agency to manage the changes brought out by the regulations. If you already have your own documentation, that's great, please send us a copy of the information for us to keep on record

The second set of forms are designed to assist the agency to ensure that the Agency Worker receives equal pay after 12 weeks employment.

If an agency workers assignment is going to exceed 12 weeks, then the Agency must decide whether they are going to Match Permanent Pay (MPP) or Pay Between Assignments (PBA).

DOCUMENTS NEEDED FOR MPP COMPARATOR ROLE DECLARATION FORM

This form needs to be completed when no comparable role already exists. Where this is the case, there will be no pay comparison available.

QUALIFYING CLOCK

This helpful guide will let you know when the 12 weeks rights come into place and when equal pay is to be applied

WEEK 12 CHECKLIST

This checklist allows you to confirm with the hirer that all week 12 rights will exist.

We need you to send us this form, or a copy of your own paperwork confirming week 12 rights.

PAY RATE INSTRUCTION SHEET

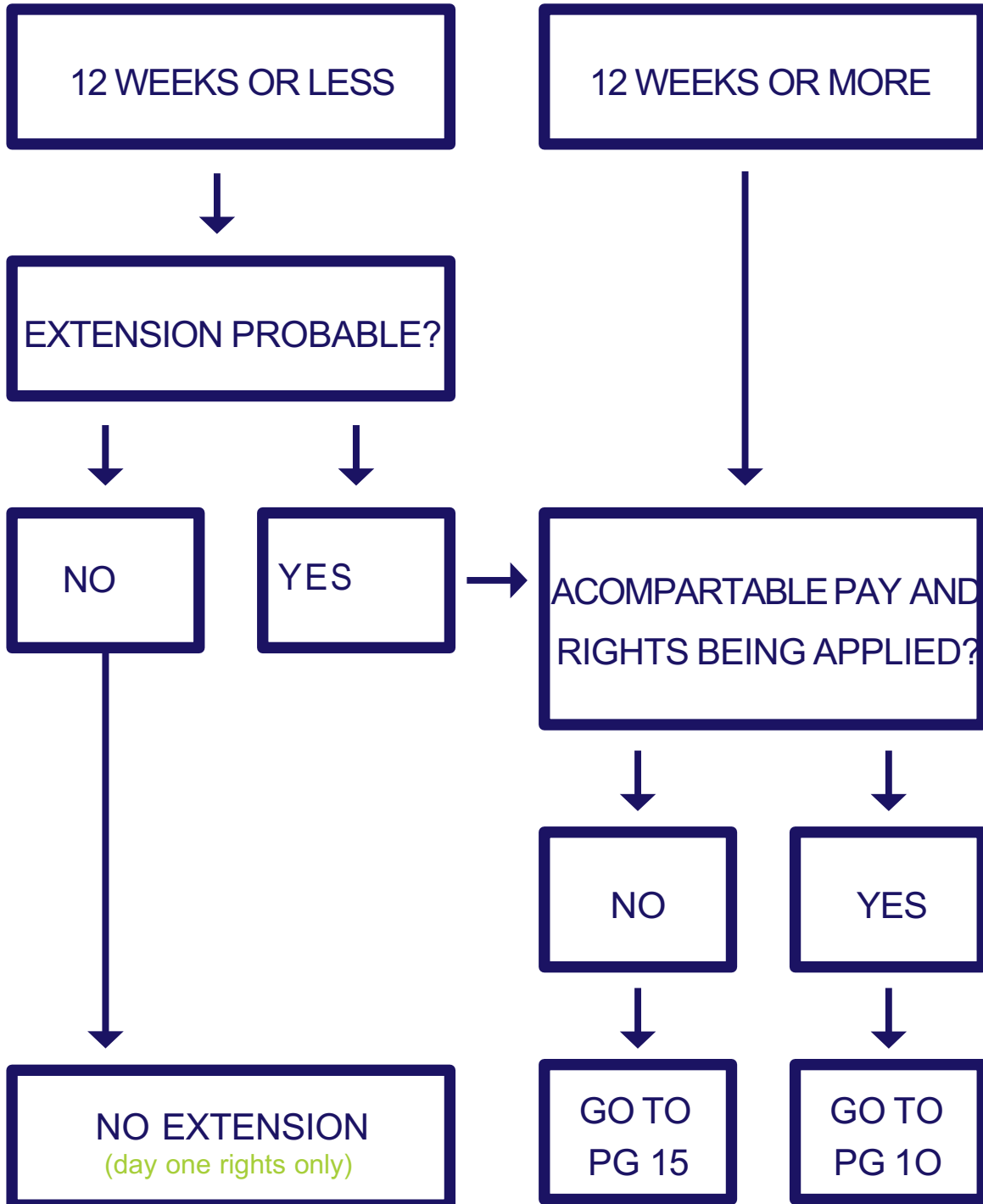
In certain circumstances such as enhanced holiday pay, the comparable rate of pay the employee gets will need to be higher than the actual rate of comparable pay. This pay instruction can either be completed by yourself using our bespoke calculator or we can fill it in and provide it to you.

DOCUMENTS NEEDED IN ADDITION TO MPP FOR PBA AGREEMENT TO PAY BETWEEN ASSIGNMENTS FORM

This form **MUST** be signed by the contract worker prior to the assignment start date. Only after receiving this form can we pay the worker under the 'pay between assignments' (SD) model.

AWR Flow Chart

Follow the chart below to establish which forms to use



Day one rights checklist

The Day 1 rights concern accessibility to site facilities and job vacancies. Ensuring that the provision of these rights is made available is the responsibility of the hirer who could be found liable for a breach of these obligations. The aim of the legislation is to provide the worker treatment “no less favourable than a comparable worker” i.e. one doing the same or similar job at the same location. We request that you complete the following checklist to establish which facilities the worker is entitled to.

WILL THE AGENCY WORKER HAVE ACCESS TO SUCH FACILITIES (This is not an exhaustive list):	YES	NO	N/A	Hirer should ensure they have evidence in support (such as; company handbook, induction guide, website/notice board)
CANTEEN FACILITIES				
WORKPLACE CRÈCHE				
BATHROOM/SHOWER FACILITIES				
MOTHER AND BABY ROOMS				
PRAYER ROOM				
FOOD AND DRINKS MACHINES				
ACCESS TO GENERALLY AVAILABLE FACILITIES				
DETAILS OF COMPARATIVE JOB VACANCIES				
WHERE SUCH VACANCIES ARE BEING ADVERTISED				

* This is a request for information that is required where possible prior to the assignment start date. Where the assignment is longer than 12 weeks such information must be supplied prior to the assignment.

* I declare that day1 rights have been established and exist for the worker.

Name of hirer

Dated

Signed

Position

Agency Declaration Form

TO BE COMPLETED WHERE THE ASSIGNMENT LENGTH IS 12 WEEKS OR LESS

Agency Declaration Form

Knightsbridge AMS Limited

We (insert name of agency) are satisfied the Hirer (insert name of hirer) will provide the worker (insert name of worker) access to generally available onsite facilities and job vacancies during the length of the workers assignment.

Signed _____ Dated _____

Name _____ Position _____

Assignment Detail List

*** WE WILL NEED A FORM COMPLETED FOR EACH DIFFERENT ASSIGNMENT THE EMPLOYEE UNDERTAKES**

ABOUT YOU

Assignment Name / Job Title	
Client Name	
Client Address	
Assignment Start Date	
Assignment End Date	
Assignment Start Date with Knightsbridge AMS Limited	
Weeks Break to Date	
Assignment Hours of work	
Previous work for client	(You confirm you have not previously worked in this role for the end client (if this statement is incorrect, please delete and provide full details)
Supervision and Direction	You confirm that this assignment does / does not (delete the inapplicable option) require you to work under the supervision and direction of the End Client
Agency Regulations Status	MPP – Matching Perm Pay or PBA Pay Between

OFFICE USE

Payroll Number	
Date Received	
Date Logged	
Merit	
Employee	

Confidentiality Agreement

THIS AGREEMENT is made this [] day of [] 200[]

BETWEEN

(Insert name of Agency) ("The Agency") who's registered office is () and KNIGHTSBRIDGE AMS LIMITED Umbrella ("The Umbrella") Gresham House, 53 Clarendon Road, Watford, WD17 1LA and (Insert Name of Agency) contains all the documents needed to allow you as the agency to comply

WHEREAS (Name of Agency)and KNIGHTSBRIDGE AMS LIMITED Umbrella for their mutual benefit may have exchanged and wish further to exchange certain information of a confidential nature and wish to protect such information in the manner set out in this Agreement.

IT IS HEREBY AGREED AS FOLLOWS:

1. DEFINITIONS

1.1 For the purposes of this Agreement the following expressions shall have the following meanings:

- (a) "Authorised Representative" shall mean any employee, director, officer or professional and financial advisor of the receiving party;
- (b) "Confidential Information" shall mean any and all confidential information pertaining to the assignment with specific reference to information received from the hirer and disclosed to the agency and governed by the Agency Workers Regulations 2011 with particular reference to Regulations 5-13.
- (c) "Assignment" shall mean the workers employment with the hirer.
- (d) "Worker" shall mean an individual who has a contract with either party (an employment contract or an agreement to perform work or provide services personally) but works temporarily for and under the direction and supervision of a hirer.
- (e) "Hirer" shall mean the company, partnership, sole trader or public body which is engaged in economic activity and which books workers via the Agency.
- (f) "The Agency" is engaged in economic activity and supplies temporary workers to the Hirer
- (g) "The Umbrella" is engaged in economic activity and employs the worker under an employment contract or an agreement to perform work or provide services personally.

2. CONFIDENTIALITY OBLIGATIONS

2.1 Subject to clause 2.2 in consideration of the mutual exchange and disclosure of Confidential Information each party undertakes in relation to the Confidential Information disclosed to it by the other party either prior to or during the Assignment or within 2 years after the Assignment has terminated.

- (a) to treat all and any of such Confidential Information as confidential and secret and not use any of such Confidential Information for any purpose other than the purpose of evaluating such Confidential Information in connection with the Assignment
- (b) to take all reasonable steps to protect the confidentiality of such Confidential Information and to prevent disclosure of same to unauthorised persons;
- (c) not to disclose any of such Confidential Information in whole or in part to any third party without the prior written consent of the other party save to its Authorised representatives who need to know the same for the purpose of evaluating such Confidential Information in connection with the Assignment.
- (d) to ensure each Authorised Representative to whom it discloses such Confidential Information is made aware of the provisions of this Agreement before such Authorised Representative receives any such Confidential Information

2.2 The obligations of confidentiality and the prohibitions against use undertaken in this Agreement by the receiving party shall not apply to any Confidential Information which the receiving party can show:

- (a) is or subsequently comes into the public domain otherwise than as a result of any breach of this Agreement by the receiving party or any of its Authorised Representatives;
- (b) is already known to the receiving party prior to disclosure which prior knowledge the receiving party can clearly demonstrate with written material;
- (c) becomes known to the receiving party by disclosure from a third party who has a lawful right to receive and disclose the Confidential Information; or
- (d) is required to be disclosed by law or by any regulatory authority provided that the receiving party informs the disclosing party in advance of the circumstances of the disclosure and exactly what is to be disclosed and uses all reasonable endeavours to obtain confidentiality undertakings from the recipients in respect of the Confidential Information disclosed.

Confidentiality Agreement

3. DURATION

3.1 This Agreement shall continue in force from the date hereof until terminated by mutual consent or by one party giving to the other party not less than one month's prior written notice. The provisions of clauses 2, 3 and 4 shall survive the termination of this Agreement.

4. NOTICES

4.1 All notices under this Agreement shall be in writing.

5. NON-ASSIGNMENT

5.1 This Agreement is personal to the parties and shall not be assigned or otherwise transferred in whole or in part by either party without prior written consent of the other party.

6. ENTIRE AGREEMENT

6.1.1 This Agreement sets out the entire agreement between the parties in respect of the Confidential Information disclosed by either party to the other and supersedes all previous understandings and undertakings in such respect.

7. COSTS

7.1 Each party shall bear its own legal and other costs incurred in relation to the preparation and completion of this Agreement.

8. SEVERANCE

8.1 Each provision of this Agreement is severable and distinct from the others. The parties intend that every such provision shall be and remain valid and enforceable to the fullest extent permitted by law. If any such provision is or at any time becomes to any extent invalid, illegal or unenforceable under any enactment or rule of law it shall to that extent be deemed not to form part of this Agreement but it and all the other provisions of this Agreement shall continue in full force and effect and their validity, legality and enforceability shall not therefore be affected or impaired.

9. GOVERNING LAW

9.1 The construction, validity and performance of this Agreement shall be governed all times by English Law and the English Courts shall have non exclusive jurisdiction in respect thereof.

AS WITNESS the hands of the parties hereto and their duly authorised representatives the day and year first before written.

SIGNED on behalf of (NAME of Agency)

(Signature)

(Position)

(Date)

SIGNED on behalf of

(Signature)

(Position)

(Date)

AWR Comparator Model

Overview

This model falls within the spirit of the AWR legislation and may involve using a comparable worker as a benchmark for the temporary workers employment terms. The comparator is an employee of the hirer working under its supervision and engaging in the same or similar work with comparable skills and qualifications to the temporary worker.

This model requires a collaborative approach from all parties in the employment chain and requires the agency to commit to information gathering and recording processes that are accurate and up to date.

The advantage of this model is that it is fully compliant with AWR and is the most beneficial to our agency workers. This model cements the joint responsibility on the hirer, agency and umbrella to ensure the information collated from the hirer is accurate.

To assist agencies and hirers in this process we have created a checklist for both parties to complete. The checklist is a record of all the information required from Day 1 or where assignments exceed 12 weeks' the requirement for equal treatment in relation to certain basic working and employment conditions. Where all pertinent information is accurately gathered in accordance with strict time limits we at KNIGHTSBRIDGE AMS LIMITED Umbrella are confident that this is a fully workable and compliant model.

Knightsbridge AMS Limited

Comparator Declaration Form

TO BE COMPLETED WHEN THERE IS NO COMPARATOR

We (Insert name of hirer) ("The Hirer") confirm that in relation to the assignment with (Insert name of Worker) ("The Worker")

THAT

In accordance with the Agency Workers Regulations 2011 (AWR) and in particular Regulations 5-13 relating to Equal Treatment that the worker is engaged in an assignment where there is no such comparable employee within our organisation. And that there are no applicable pay scales going rates or collective agreements in relation to pay. Further the worker is not entitled to have the same basic terms and conditions of employment pursuant to Regulation 6 of the AWR. The worker is entitled to the usual Day 1 rights pursuant to Regulation 12 of the AWR

Name of hirer

Dated

Signed

SIGNED on behalf of

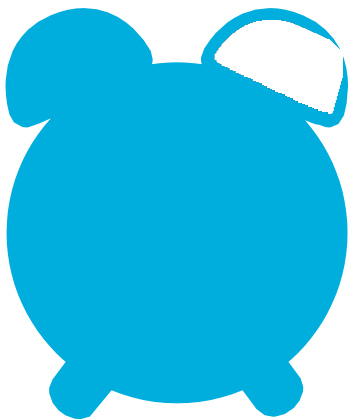
(Signature)

(Position)

(Date)

The Qualifying Clock

The Qualifying period is 12 calendar weeks irrespective of working pattern e.g. full-time or part-time hours, after which an agency worker is entitled to equal treatment. The qualifying week starts at the commencement of the assignment. The Regulations also clearly state that any time spent on the assignment prior to 1st October 2011 does not count towards the qualifying period. Under Regulation 7 the clock for the qualifying period will only start again in a new assignment with the same employer after a 6 week “cooling off” period or where there is a new assignment and the work or duties that make up the whole or the main part of that new role are substantially different.

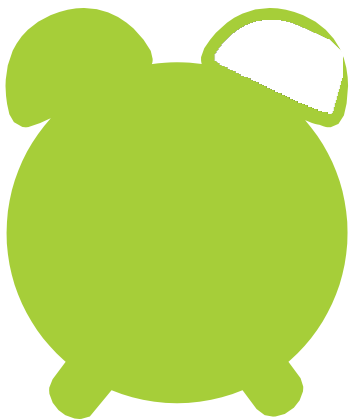


The clock resets if...

Agency worker begins a new assignment with new hirer

OR Agency worker remains with the same hirer, but is no longer in the same role and is notified by the agency of role change

OR A break between assignments of 6 weeks or more (which is not one which pauses the clock)



The clock pauses if...

There is any reason where the break is less than 6 weeks

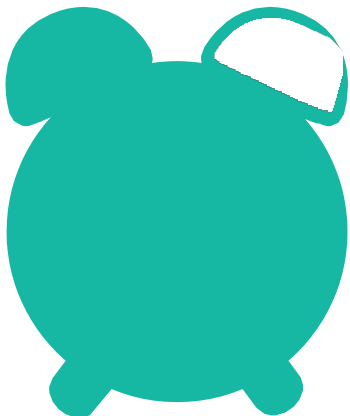
OR Sickness absence

OR Annual leave

OR Shut downs e.g. factory closure, school holidays

OR Industrial action

OR Jury service *



The clock keeps ticking when...

There is pregnancy or maternity related absence

OR Statutory maternity, paternity or adoption leave ***

* Pauses the clock for up to 28 weeks

** (The protected period for a pregnant agency worker begins at the start of the pregnancy and ends 26 weeks after childbirth)

*** (Where an agency worker has a contract of employment with the agency and is entitled to this type of leave)

Week 12 rights checklist

After the worker has been on an assignment in the same role with you for 12 calendar weeks, (weeks worked before 1 October 2011 will not count), temporary agency workers must be given equal treatment in respect of certain basic working and employment conditions.

Equal treatment will be established by considering what working and employment conditions the agency worker would have been provided with had he/she been recruited by you directly. This is best achieved by looking at the terms and conditions ordinarily contained in contracts of your directly engaged staff. However, terms and conditions that must be matched are those relating to those included in the following checklist.

WEEK 12 RIGHTS	RATE (HIRER)	ALLOWANCES	MONETARY VALUE
PAY WHICH INCLUDES BASIC PAY			
PAY FOR ANNUAL LEAVE (above the WT regs entitlement if that is what a comparable direct hire is contractually entitled to.			
OVERTIME PAYMENTS			
SHIFT/UNSOCIAL HOURS ALLOWANCES			
BONUSES directly attributable to the amount or quality of the agency worker by the agency worker.			
VOUCHERS/STAMPS WITH A MONETARY VALUE			
ADDITIONAL DISCRETIONARY, NON CONTRACTUAL BONUSES as long as they are not one off payments			
IN ACCORDANCE WITH THE WORKING TIME REGULATIONS 1998 CONFIRMATION OF DURATION OF WORKING TIME AND RESTRICTIONS ON NIGHT WORK			
IN RELATION TO PREGNANT WORKERS THEIR ENTITLEMENTS e.g. paid time off for attending ante natal appointments			

* This is a request for information that is required where possible prior to the assignment start date. Where the assignment is longer than 12 weeks such information must be supplied prior to the assignment.

* We agree to not to disclose such information relating to your organisations basic working terms and conditions save as required by law for the purpose of ensuring compliance with the Agency Workers Regulations 2010.

Name of hirer

Dated

Signed

Position

Pay rate instruction sheet

COMPARATOR INFORMATION

Comparator hourly rate	
Comparator annual holiday entitlement	
Working hours (per week)	
EMPLOYEE INFORMATION	
Employee hourly rate	
Employee working hours	
Employee comparator rate inclusive of holiday	

OFFICE USE

Payroll Number	
Date Received	
Date Logged	
Merit	
Employee	

Limited Company Contracts and Professionals

Other situations may exist when a contractor is not within the scope of the AWR legislation. The regulations state that an individual is not an agency worker if:

a) the contract the individual has with the temporary work agency has the effect that the status of the agency is that of a client or customer of a profession or business undertaking carried on by the individual;

or

b) there is a contract, by virtue of which the individual is available to work for the hirer having the effect that the status of the hirer is that of a client or customer of a profession or business undertaking carried on by the individual.

Limited company contractors can demonstrate that they are outside of AWR if they are in a profession or business undertaking. Current opinion is that a contractor's personal service company would qualify as a business undertaking. Although there are no formal tests under the legislation to determine whether a contractor's limited company is a "business undertaking." They must be able to show that they are in a genuine "business to business" relationship.

Other individuals classed as professionals must demonstrate that they are not working under the supervision or direction of the hirer and that the hirer is in fact their client. In those circumstances the contractual arrangement between the parties must be carefully considered to ensure that such client or customer relationship exists.

At Knightsbridge AMS our aim is to limit liability to all parties in the supply chain. In our opinion the starting point is to determine if the individual who is supplied to work under the supervision and direction of the hirer is an agency worker as defined in the regulations; if in the event they are not, then where possible we can supply alternative options.

Final Word

At Knightsbridge AMS we believe that a collaborative approach between the agency, hirer and contractor will prove to be the most successful working relationship as we will not know for several months or even years how exactly the AWR will work until the regulations are tested in courts. However, at KNIGHTSBRIDGE AMS LIMITED we can assure you that we will remain flexible to our agencies needs and remain compliant with the legislation whilst being fair to our contractors.

ANY QUESTIONS? CALL ONE OF OUR FRIENDLY TEAM TODAY ON 01274 288848