

Can contractors cut out their agent?

Can the agency be cut out of the deal? Assuming you have no written agreement with the agent, the short answer is: probably, but you'll be playing with fire.

There are three points in the contract process in which you will be offered this choice.

- o First, after the interview – before signing with the agent;
- o At renewal time - you may want to change the agent if the agent tries to cut your fee or if the client no longer wants to use them.
- o During the contract - maybe the agent breaches contract by not paying.

Choose the Right Strategy

At each point in the process, you should choose a different kind of strategy.

First of all, we're assuming that you don't have any kind of written agreement with the agency stating that you are already associated with that organisation. Says David Royden, a lawyer specialising in contract law with the Manchester office of Laytons Solicitors: "Should you have a written agreement with the agency stating that you have no right to work for their clients independently, that agreement will in most cases be enforceable in court." Royden points out that judges do not like to restrict anyone's right to work, but if you have agreed to that restriction in exchange for consideration (i.e. meeting the client), the judge is likely to take a dim view of your not respecting it.

A Three-Way Relationship

But as Royden points out, it is usually not the contractor, but the client who has an agreement with the agency. The client usually stipulates that the company will not hire candidates that the agency proposes. This agreement is also enforceable in court, but, of course, it doesn't affect you, the contractor, directly. The client has a lot of clout with the agency, and often the client can pressure the agency into allowing you to work directly for that company. If you want to take the job, ask the client whether or not trouble with the agency may be expected.

“ A written agreement with an agent will probably be enforceable in court ”

David Royden-Laytons Solicitors

Trouble With the Agency

The problem is, though, that you will certainly never get work from that agency again. Okay, you may say, there are always other agencies. But agents talk to each other, and you do develop a reputation as you continue to work as a contractor. If you make a practice of cheating agents, sooner or later word of it could catch up with you.

Changing Agents Midstream

But what if the client and the agency disagree, and the client says that you should work for that company through a different agent.

"Here you are on firmer ground," says Royden. "As explained, judges do not like to limit anyone's right to work without good reason. You have no agreement with the first agent. So this becomes the client's problem, and you are probably free to make the change."

When An Agency Doesn't Do Its Job

Finally, what happens when an agency doesn't pay you on time, or fails, in some other important way, to fulfil the terms of your contract?

Here you have a right to [terminate your contract](#) claiming breach of contract, and you can move on to another agent or to work directly for the client. You should first write to the agency and state that you will not tolerate the breach of contract if it continues. If it happens again, you can terminate safely without further issues arising.

“ Judges do not like to restrict the right to work for anyone freely ”

David Royden-Laytons Solicitors

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