

## **Employment Advice Update May 2011**

### **Employing Agency Staff & Temporary Workers**

The government has now produced its final draft for hirers and agencies on the Agency Workers Regulations 2010. The Agency Workers' Directive is one of the most important pieces of new employment law to be introduced for a considerable time. It will have major implications for employers and will be essential for all organisations that supply staff.

The new Directive will provide 'equal treatment' for temporary and agency workers, giving them equal rights to permanent staff after 12 weeks with an employer. This may have some important considerations for pay, sickness benefits, holiday entitlements etc.

This new legislation which is planned to be implemented by **October 2011** and will affect over one million temporary agency workers in the UK.

We are working with Harrowells Solicitors, York, to offer a workshop on the new bill in July. Watch out for further details

Ref <http://www.bis.gov.uk/policies/employment-matters/strategies/awd>

### **Government offers to simplify health and safety procedures**

The Government has unveiled a wholesale reform of Britain's health and safety landscape in the wake of the March 2011 Budget and the Lord Young review of health and safety carried out last autumn.

### **Health and Safety made simple**

The Health and Safety Executive has produced a short guide on managing risks in the business. This is a simplified guide and is very helpful to small organizations.

Ref <http://www.hse.gov.uk/simple-health-safety/manage.htm>

### **Government Consultation on Parental Leave, Flexible working, Parental leave following sickness and maternity/paternity and Equal pay audits.**



As part of the reviews into changing employment law, the government is undertaking a consultation on a range of issues including

- \*Parental Leave – increasing the flexibility for parents to share parenting leave
- \* Flexible working – amending guidelines for employers and protecting small businesses from the rulings
- \* Clarifying and limiting carry forward of leave following a period of sickness or maternity/paternity leave
- \*Imposing equal pay audits where employers have been found to discriminate pay on the grounds of sex.

See <http://discuss.bis.gov.uk/modernworkplaces>

### **Data Protection**

The Information Commissioners Office has issued a code of practice for sharing information between organisations in regards to sharing personal data. To help work through the code, the ICO has issued checklists for employers. These can be found on [http://www.ico.gov.uk/for\\_organisations/data\\_protection/topic\\_guidelines/data-sharing.aspx](http://www.ico.gov.uk/for_organisations/data_protection/topic_guidelines/data-sharing.aspx)

### **The Bribery Act 2010**

The guidance provides information on the safeguards that businesses can put into place to prevent bribery as well as case studies on hospitality, facilitation payments and joint ventures. It also gives an indicative but non-exhaustive list of topics that a business's anti-bribery policy should cover, for example disciplinary procedures and sanctions for a breach of the anti-bribery policy. The guidance is based on six guiding principles: proportionate procedures; top-level commitment; risk assessment; due diligence; communication (including training); and monitoring and review. The guidance makes clear that the Act will not prohibit bona fide hospitality, promotional or other business expenditure, provided that it is proportionate and reasonable. The guidance is also accompanied by a non-statutory quick start guide, which is aimed at helping small businesses prepare for the Act's implementation.

This will come into force on the 1<sup>st</sup> July 2011.



Guidance can be found on <http://www.justice.gov.uk/guidance/bribery-act-2010-guidance.pdf>

A quickstart guide can be found on <http://www.justice.gov.uk/guidance/docs/bribery-act-2010-quick-start-guide.pdf>

### **Disability under the Equality Act 2010**

Revised statutory guidance on the definition of disability under the Equality Act 2010 came into force on 1 May 2011. The definition of what amounts to a 'disability' under the Equality Act 2010 is broadly the same as the definition under the Disability Discrimination Act 1995 (DDA): "a physical or mental impairment which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities". There is no longer a prescribed list of the day-to-day activities that must be affected, as was included in the DDA.

The Equality Act 2010, as with the DDA, contains a provision for statutory guidance to be issued on the matters to be taken into account when determining whether or not an individual is disabled for the purpose of the Act. Even though most of the provisions of the Equality Act 2010 came into force on 1 October 2010, the previous guidance issued under the DDA remained in force pending this new version.

The revised guidance can be found on <http://odi.dwp.gov.uk/doc/law/ea/ea-guide-2.pdf>.

### **Redundancy Workshops**

We are running 8 local workshops on handling redundancies in June which will be facilitated by an Advisor from the EAS Team and hosted by your local LSDO. The aim of the workshop is to enable Trustees and Managers to understand how to handle redundancies, taking into account legal requirements and, more importantly, ensuring the process is constructive, fair and thorough.

The interactive workshops will be one and a half hours with a half hour optional surgery where we can address individual organisation issues. Please contact the Employment Advice Service team on 01347 825710 or email [employment.advice@nyyforum.org.uk](mailto:employment.advice@nyyforum.org.uk) for more information on dates and venues.

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