

Temporary Staff Times

A newsletter brought to you by OGC

MARCH 2008

For those in the public sector who use temporary agency staff

National Insurance “Free Pay” Increase

Please be aware that the “free pay” allowance will be increased for the next fiscal year. In 2007/08 the free pay allowance was £100, but for 2008/09 it has been raised to £105. This means that the first £105 of work done during the week does not incur the employer's element of National Insurance. The guidance from HMRC can be found here:

<http://www.hmrc.gov.uk/rates/nic.htm>

This will essentially equate to an overall reduction in invoice charges, and we recommend that you review your contractual status and existing invoices to take this regulatory change into account.

James versus Greenwich

Our April 2007 newsletter noted the impact of the *James v the London Borough of Greenwich* case for the risks of employment claims. This case was appealed to the Court of Appeal, which handed down its judgment on 5 February 2008. It upheld the original decision that the agency worker in this case was not an employee under an implied contract of employment. The judgment didn't provide the easy answers many were looking for, but that's because protection for agency and temporary workers can only be given by legislation.

It does however confirm that an employment tribunal should only imply a contract of employment between an agency worker and end-user on grounds of necessity i.e. where it is necessary to reflect the business reality between the parties and ensure that the legal obligations correspond. This will require careful consideration of the facts of each case to determine in accordance with legal principles whether the agency worker is a self-employed agency worker or an employee or either.

The Court stressed the labels the parties give are not definitive. Instead it is important that the worker should be supplied and managed by the agency and not treated as an employee of the end user. Also decisions regarding pay, sick leave, holiday and any disciplinary or grievance matter should be between agency and worker and not the end-user and the worker. Helpfully the judgment did say that time alone was not sufficient to create an employment relationship.

In future it seems agency cases will depend mainly on their facts, therefore it is important that the correct arrangements are put in place and adhered to. The full transcript can be found at: <http://www.bailii.org/ew/cases/EWCA/Civ/2008/35.html>

Private Members Bill and EU Temporary (Agency) Workers Directive

On 22nd February there was a second reading of the Temporary & Agency Workers (Equal Rights) Bill. The House of Commons voted 147 to 11 in favour of the bill. This means that the Bill will now go to committee. You will be able to follow the progress of the Bill on this website:

<http://services.parliament.uk/bills/2007-08/temporaryandagencyworkersequaltreatment.html>

Also, the EU Temporary (Agency) Workers Directive may be coming up for another vote this year. Again, at issue is whether agency workers should have the same rights, conditions, and pay as comparable with permanent workers, and whether that would apply after a qualifying period or whether it would apply immediately upon assignment. BERR is leading for government on both the Bill and the Directive.

We will keep you informed of developments.

Save up to 50% on Your Agency Spend!

The agency staff category team will be hosting demand management workshops over the next few months. It will cover demand planning, demand assurance and present several case studies from

local and central government. These case studies show that between 10-50% of agency spend can be obtained using demand management and workforce planning techniques. Please get in touch if you would like to attend and find out more;

tempstaff@ogc.gsi.gov.uk

0845 000 4999.

New additions to the OGC Professional Services Team

We are very pleased to announce three new additions to our team! Hazel Greaves and Jill Gomez are our two new Category Managers for Consultancy, and Georgina Aplin is our new Category Manager for Temporary Staff with a specific focus on Local Government and Social Care. Get in touch! (See contact details below.)

Don't forget: check financial status of your suppliers!

Before you "sign on the dotted line" of your new contract, make sure you've checked the financial status of your suppliers. The need for regular checks may increase in importance if agencies find it increasingly hard to obtain credit, as has been suggested recently in the press.

See <http://www.recruitermagazine.co.uk/Articles/334968/Calm+before+the+cr edit+storm.html>

There is a new collaborative agreement available for financial reports on suppliers.

See http://www.ogc.gov.uk/procurement/resources/financial_reports_framework.ork.asp for more details.

Deals for Interim and Specialist Contractors available

Are you struggling to find competitive deals for Interim Professionals and Specialist Contractors? It's worth considering the OGC Buying

Solutions Catalist™ Framework Agreements for benchmarking and sourcing your requirements.

The Catalist™ framework gives access to a number of suppliers with a vast workforce of skilled and professional contractors at competitive rates. The framework will save you both time and the expense of running your own OJEU tenders for this common service, and give you a gateway to a fully legal and compliant contracting tool with terms and conditions that fully meet public sector needs. Catalist™ can be used to satisfy simple one-off requests for a single post; set up your own preferred supplier call-off contract; or select a sole supplier call-off contract. For more information please follow the link below.

<http://online.ogcbuyingsolutions.gov.uk/information/ResourcingServices/>

Why not visit the Contracts Database for details of other frameworks and contracts available to other parts of the public sector, see

<http://www.ogc.gov.uk/contractsdata/base/>

London Centre of Excellence Launching Electronic Knowledge Exchange

The London Borough of Havering, in conjunction with the London Centre of Excellence, launched the Electronic Knowledge Exchange (EKE) at its Agency Staff Managed Services Forum on 22nd February in central London. The Forum was open to all London local authorities and discussed challenges in contract management, gaining maximum benefit from your Managed Service and the key challenges with an agency workforce. To find out more about the EKE, send an email to stephanie.favell@haverling.gov.uk or call 01708 433 438.

IDEA Talent Management Event – check out the Online Forum!

The IDEa's (Improvement and Development Agency for local government) Talent Management Community of Practice (CoP), the online community for interested local authorities, held an event in London on 31st October to celebrate a highly successful first year. The CoP now has over 400 members who are able to share ideas and good practice on a wide range of talent management topics online, such as succession planning, addressing recruitment problems in skills shortage occupations, employee engagement and motivation and management development. The OGC ran a well received session on the latest in temporary staff procurement.

You can visit the Community of Practice and download the presentations here: <http://www.communities.idea.gov.uk>.

Registration is free!

Did you know?

The OGC's Collaborative Procurement department has national expertise in a variety of categories, from energy, food, fleet, ICT, telecoms and more. We are independent and happy to give advice and guidance to assist you. Phone the Service Desk at 0845 000 4999 or email servicedesk@ogc.gsi.gov.uk. We're here to help!

Add your colleagues!

If you think that your colleagues would be interested in receiving future editions of the Temp Staff Times, send an email with their contact details to tempstaff@ogc.gsi.gov.uk.