

Recruiter body defends contractors' rights in new Agency Workers Directive proposals

The newly formed [Association of Recruitment Consultancies \(ARC\)](#) is making a stand for contractors against the [Agency Workers Directive \(AWD\)](#), backed by the [Institute of Directors](#) and the [Federation of Small Businesses](#).

Contractors' livelihoods are threatened by government proposals to force permanent staff rights on agency workers under the AWD after only 12 weeks into a contract. If this were to happen, the resulting cost to end-user clients would make contractors and freelancers prohibitively expensive.

ARC is insisting that the proposals of how the AWD is to be implemented into UK law, as presented by the Department of Business, Enterprise and Regulatory Reform ([BERB](#)), should be dropped. Instead, ARC is proposing a framework that would protect vulnerable agency workers and leave contractors to get on with running their businesses.

"The purpose of the Agency Worker's Directive is quite rightly to provide proper protection to those agency workers that are seen as 'vulnerable'," explains Adrian Marlowe, ARC chairman and managing director of legal firm [Lawspeed](#). "Unfortunately, the agreement does not distinguish between 'vulnerable' and other workers, with the result that equal rights will apply to all after 12 weeks have passed."

Flexible and responsive economy

ARC points out that agency staff contracted over longer periods and working on complex projects in sectors such as IT, engineering, finance and other highly skilled positions are not 'vulnerable' and do not require the protection of the 12-week period.

Former City IT contractor, Dave Chaplin, agrees. Now the editor in chief and CEO of ContractorCalculator.co.uk, he says he never once felt vulnerable working for clients through agencies. "In my eight years as a contractor, I behaved and was treated like a professional business-to-business services provider. Many contractors earn six-figure sums and can hardly be considered vulnerable!"

If contractors were to receive equal rights after 12 weeks, it is probable that many end-user clients would opt not to use the flexible and highly skilled resource that contractors represent. "This would be a massive blow to the UK economy as it attempts to clamber out of recession," points out Chaplin.

Marlow agrees: "If the country is to keep ahead of its competitors and encourage hirers to use temporary staff, we must protect the recruitment supply industry from unnecessary damage and help preserve flexibility in the economy."

Two-tier solution

ARC's proposal, which has the support of the Institute of Directors and the Federation of Small Businesses, is simply to differentiate between vulnerable agency workers, who would qualify for equal rights after 12 weeks, and non-vulnerable workers like contractors, who would qualify for equal rights after 12 months.

Workers subject to exploitation, typically at the lower pay and lower skill end of the temporary worker market, will receive protection under ARC's proposal, whereas highly skilled and professional contractors can continue to deliver their services to end-user clients via agencies, without the threat of excessive regulation.

"A broad sweep of 12 weeks applying to all is insufficient to protect the staffing industry and will suppress agency work," says Marlowe. "Why not create a distinction that protects lower paid 'vulnerable' agency workers, so that they achieve the rights at 12 weeks, whilst providing for a much longer derogation period for those that are in a stronger position?"

Response to First Consultation

The rules agreed by Brussels allow the Agency Workers Directive to be implemented by member states under a two-tier system, as long as agency workers are adequately protected, as they would be under ARC's proposal.

"Many elements of the government proposals are complex and could be riddled with unintended consequences," says Marlow. "This proposal maintains the underlying balance that the government is looking for. It ensures that the economy and recruitment industry is not damaged, at the same time as giving protection to workers who may be susceptible to exploitation, which is what the unions wanted."



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Adrian Marlowe, ARC and
Lawspeed

Responses to BERR's proposals must be submitted by 31st July 2009. Lawspeed is hosting seminars in London, Birmingham and Manchester on the Agency Workers Directive First Consultation, following which it plans to present detailed analyses of BERR's proposals as a formal response.

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Dave Chaplin
CEO
ContractorCalculator

Dave Chaplin is a former IT contractor in the City of London, and is founder and CEO of ContractorCalculator, and author of the Contractors' Handbook.

Started in 1999, ContractorCalculator (this site) is the leading independent website for the UK contracting industry - most of whom are highly skilled knowledge workers. [Read Full Profile...](#)

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