

Conference reveals troubled times ahead for contractors

At the first major industry event following the adoption of the [Agency Workers Directive](#), delegates from the contracting, recruitment and end-client sectors were told that major changes might be round the corner.

Keynote speakers presented their analysis of issues of major importance to contractors, including the Agency Workers Directive, identity checking and the right to work. Not surprisingly, the impact of the Agency Workers Directive dominated the proceedings as realisation of its potential impact begins to reach a wider audience.

No turnaround

There was a general mood of acceptance that, having been adopted, the Agency Workers Directive is here to stay and future efforts should be focused on ensuring the potential damage of the resulting UK legislation is mitigated.

And the potential damage to the contracting and recruitment sectors could be considerable, as Adrian Marlowe from event organisers [Lawspeed](#), which specialises in providing legal and business services to the recruitment sector, explains.

"The directive is quite explicit in its requirements for the treatment of agency workers," says Marlowe. "We have examined the directive from all angles and cannot see how it will satisfy any of the objectives without damaging the industry."

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Adrian Marlowe, Managing Director, Lawspeed

Comparable pay

According to Marlowe, providing comparable pay for agency workers will prove to be a major hurdle, as knowledge workers like contractors are difficult, if not impossible, to compare. Contractors who work through [limited companies](#) are unlikely to be exempt from the directive.

"There is a certain amount of power for member states to 'derogate' from the directive," continues Marlowe, "but if a whole class of workers are exempted, for example those who use a limited company, then you can imagine a scenario where all agency workers will find themselves working in that fashion, and thus exempt."

As employment businesses, [contractor umbrella companies](#) will also be affected by the directive. Contractors working for umbrella companies and who generate their contracts via agencies will find themselves in a similar situation to contractors with limited companies.

The government has made it clear that it will legislate for the directive, but has given no indication of what the legislation will be. The resulting uncertainty for contractors, agencies and end-user clients will not help the economic stability of the UK at this particularly vulnerable time.

Timetable

Delegates were told that the likely timescales for legislation will worsen the uncertainty. Contractors have suffered enough from rushed and poorly considered legislation such as [IR35](#), but early indications of how the government plan to tackle the directive would be welcomed.

Anne Fairweather, Head of Public Policy at the [Recruitment and Employment Confederation](#) (REC) and a keynote speaker at the Lawspeed event dismissed suggestions that the government will rush forward legislation: "Of course the government is free to legislate on any matter at any time, but if we consider what is practical rather than the theory, it would be difficult to imagine any new legislation before April 2010."

Fairweather also told ContractorCalculator that: "If the government follows its previous models, once the directive has been finalised in Brussels, there will be a three month consultation.

"The Recruitment and Employment Federation, through the Agency Work Commission, will be examining proposals by government in great detail. We will be considering the practical implications of legislation and there is a need to work for the client community as well."

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Less choice for contractors

The financial realities of the agency market with the new rules may result in less choice overall for contractors. End-user clients look to the agency sector to perform three core tasks:

- o Find candidates
- o Pay candidates
- o Remove or reduce the business risks associated with employment rights

Contractors benefit in a similar fashion. What many clients who opt to use agencies are unlikely to want is a direct relationship with the contractor. In addition, if required to match pay and conditions, end-user clients could see a significant increase in costs.

The likely reaction from finance directors in end-user clients faced with rising costs will be to take action and put pressure on rates that is likely to result in tighter margins for the agencies. Medium sized and small players could find themselves consolidating to survive.

A knock-on effect could be a reduction in rates for contractors, plus less contracts available as clients find alternatives for UK contractors, for example by off-shoring more work. Both mean fewer choices for contractors.


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