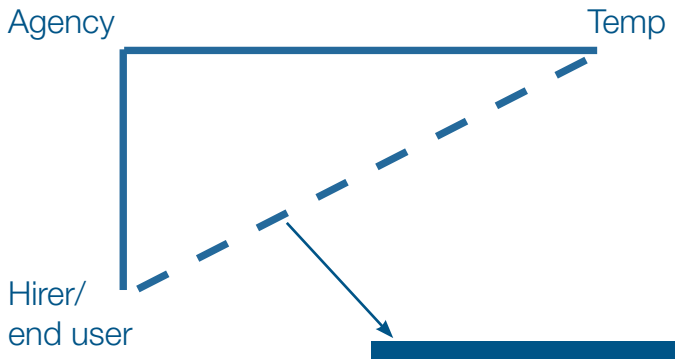
The Agency Workers Regulations 2011 Flowchart

irwinmitchell solicitors

In scope



Out of scope

- Self employed
- Secondments
- Service Companies (probably)
- Managed Service Providers
- Temp banks
- One off projects

Carry on under existing T's and C's

Conduct Impact Assessment

Temps with 12 weeks service

- 12 weeks + with same hirer?
- Are they business critical?
- 1+ assignment?
- Breaks less than 6 weeks?
- Maternity or sickness absence?
- Consider peaks and troughs in requirements over year

Look at:

- Ts and Cs with Temps (if agency)
- Speaking to temps (re: 12 weeks)
- Commercial terms – agency and hirer
- Indemnities in Commercial Contract
- Policies of Insurance
- Consolidating providers

Pregnant Temps: Conduct risk assessments

What is "Pay"?

✓
Basic Pay
Shift Pay
Holiday Pay
Working time
Overtime
Rest breaks
Ante Natal
Commission/Bonus for personal output
Vouchers – if cashed

✗
Pension
Company sick pay
Notice Pay
Redundancy Pay
Insurance benefits
Contractual
Maternity/Paternity Pay
Bonus for corporate performance

Consider "comparators" – look at:

- Contracts
- Handbooks
- Pay scales
- Collective agreements
- Custom and Practice
- Consultation arrangements

} Compare to equivalent agency worker

Day 1 rights

- Access to information on vacant jobs
- Canteen/vendor machines
- Car park/transport services
- Creche/mother and baby room
- Office Gym
- Prayer room
- Common room/waiting room

Look at:

- Managing Rotas re above
- Waiting lists re above
- Temp handbooks?
- Temp Feedback forms?

1 October 2011

Ways Out

- After 11 weeks - Stop supply?
- Consider "Swedish Derogation" – does it apply? Seek advice
- Change strategy for service provision

After 12 Weeks

- Deal with requests for equivalent pay
- Consider if same/similar job
- Consider same/similar experience
- If so, adjust pay

Potential Claims

- Discussion between agency and hirer
- Respond within 21 days
- If legit: pay up
- If not: fight it

Consider who is liable

Agency or hirer or both?

Day 1 Rights

Hirer to deal with Day 1 rights