

**SUBJECT: IMPLEMENTATION OF THE AGENCY WORKERS DIRECTIVE**

**JOINT REPORT OF THE CHIEF FIRE OFFICER AND PERSONNEL ADVISOR TO THE AUTHORITY**

---

**1 INTRODUCTION**

- 1.1 The purpose of this report is to advise members of the proposed implementation of the Temporary Agency Workers Directive (2008/104/EC), which affords agency workers equal treatment in basic employment and working conditions as if they had been recruited directly by the end user. It will not cover occupational social security schemes and it is not intended to change the current employment status of agency workers or their entitlement to existing employment rights.
- 1.2 In a press release on 20 May 2008 the Department for Business, Enterprise and Regulatory Reform (BERR) reported that the Government had agreed a deal between unions and employers that would see agency workers in the UK receive equal treatment after 12 weeks employment.

**2 BACKGROUND**

- 2.1 The Governments' position on the Directive has been consistent. The Government supported the underlying principles of the Directive but sought changes which ensured that it met with the twin objectives of flexibility for UK employers and fairness for workers. The Government undertook high level discussions during 2008 with the UK's national social partners – TUC and CBI – to try and find a way to break the deadlock on the Directive which had prevented agreement. On 20 May 2008 the CBI and TUC reached an agreement on how fairer treatment for agency workers in the UK should be promoted, including a commitment to equal treatment for agency workers after 12 weeks in a given job. The Directive was published in the Official Journal on 5 December 2008. EU Member States have until 2011 to adopt and publish laws, regulations and administrative provisions.

**3. THE DIRECTIVE OBJECTIVES**

- 3.1 The Temporary Agency Workers Directive provides that basic employment and working conditions are: the duration of working time; overtime; breaks; rest periods; night work; pay and holiday entitlement. The Directive also provides other entitlements which aim to improve the situation for agency workers, for example, in terms of improved access to permanent employment and training.
- 3.2 In addition, the Directive has the aim of liberalising the agency sector across the EU thus potentially bringing benefits to UK employment businesses who wish to expand into the EU, however existing laws in EU member States have proved prohibitive.

## 4. CURRENT GOVERNMENT PROTECTION

- 4.1 The Government has already put in place employment rights that agency workers benefit from. These include the right to a minimum wage, a right to paid holiday, a limit on the working week and regular breaks. Protection under anti-discrimination law, health and safety legislation and maternity rights also apply to agency workers as well as permanent workers.

## 5. CONSULTATION

- 5.1 The department for Business, Enterprise and Regulatory Reform (BERR) is seeking views on the implementation of the Directive on conditions for temporary (agency) workers – Directive 2008/104/EC – more usually known as the “Agency Workers Directive” (the Directive). Member States have until 5 December 2011 to implement. The BERR propose to implement on the basis of the CBI/TUC agreement of May 2008.
- 5.2 The purpose of the consultation is to seek the viewpoint of agency workers, temporary worker agencies and hirers. This is the first stage of the consultation, running for 12 weeks until 31 July 2009. The second stage will seek the view of on the draft implementing regulations, also inviting views on what practical users would welcome in the guidance which will accompany the Regulations.
- 5.3 The LGE is preparing a response to the consultation on behalf of local government and to assist local authorities, they have prepared comments on the consultation questions which are available from the consultation section of the LGE website.
- 5.4 The implementation of the Directive is likely to have major implications on the costs and use of agency workers. Therefore local authorities are encouraged to review the proposals and their comments and provide them with their views by 3 July 2009.
- 5.5 Members are therefore asked to consider and comment upon the proposed response attached and agree that the Chief Fire Officer in consultation with the Chairman of the Authority submit the response on behalf of the Authority.

## 6 CONCLUSIONS

- 6.1 The Government will now engage with its European partners to seek agreement on the terms of the Agency Workers Directive that will enable this agreement to be brought into legal effect in the UK. The Government hopes that the EU agreement will be obtained in time for the necessary UK implementing legislation to be introduced in the next parliamentary session.

## 7 EQUALITY AND FAIRNESS IMPLICATIONS

- 7.1 There will be equality and fairness implications in respect of the implementation of the Temporary Agency Workers Directive which will be subject of a further report.

**8 HEALTH AND SAFETY IMPLICATIONS**

8.1 There are no health and safety implications in respect of this report.

**9 RECOMMENDATIONS**

9.1 Members are is requested to:

- a) Consider and comment upon the proposed response;
- b) Receive further reports as appropriate.

---

**BACKGROUND PAPERS**

The undermentioned Background Papers refer to the subject matter of the above report:

- BERR – Implementation of the agency workers Directive: A consultation paper, May 2009
- LGE Employment Law update May 2009