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# Adding to the bottom line

**A Happy New Year! What will 2010 bring for you? Will you continue to feel threatened by the plethora of employment law changes on the horizon? Or will you discover this year that human resources management actually adds value to your business, asks Sue Berry, director of TimelessTime Ltd.**

The policing aspects of human resources (HR) are a mere ten per cent of the subject:

the rest is positive and contributes to the bottom line. All too often HR is seen as only being about dismissal and tribunals.

As someone who has been head of HR in three big firms, I know that HR is the science of employing people and making sure that those people add to the bottom line. Research over the past ten years or so by Watson Wyatt illustrates that getting HR management right contributes directly.

Recruiting the right people in the first place, intelligently using contractors and communicating with staff adds a massive seven per cent to profit. Next in line is effective leadership and other management oriented aspects of HR. Then there's the old chestnut with a 2009 slant: pay, benefits and incentives.

Finally, the employee centric things-like personal development-weigh in at three per cent. Slightly counter intuitively, creating a cosy job security detracts a huge seven per cent suggesting that managed staff turnover is actually healthy. It all adds to 26%: that's 26% of additional profits just for getting HR management right in your company. Well worth having!

In this year's Queen's speech the government announced it will in the next Parliamentary session "legislate to provide agency workers with the right to be treated equally with permanent staff on pay, holidays and other basic conditions."

Adams and Remers solicitors is urging employers of all sizes to start to consider the implications this may have on their business.

This announcement ties in with the requirement of a European directive on agency workers passed in December 2008 which the UK government has until 5 December 2011 to implement. This European Union directive provides the "basic working and employment conditions" of temporary agency workers shall be at least those of an employee in the same undertaking occupying the same job.

According to Amy Richardson, solicitor at Adams and Remers, the directive does clarify that basic working and employment conditions means conditions relating to the dura-

## Equal rights for agency workers

tion of working time, overtime, breaks, rests, night work, holidays and public holidays, and pay. The directive does not give the agency workers any protection in terms of unfair dismissal, notice period or the right to a redundancy payment.

Following consultations the government has held it has indicated these proposed changes will apply to agency staff working for 12 weeks or more.

The likely affects on employers and agencies are:

- in many cases, especially where an agency worker is engaged for a particular one off project, there may be no obvious permanent employee comparator. In these circumstances, it will be difficult to identify what the worker will be entitled to by way of equal treatment;

- the 12 week qualifying period may lead to a regular turnover of agency staff and gaps between periods of assignment, in order to avoid the rules on equal treatment. The UK implementing legislation is likely to contain provisions clarifying how long a break between assignments will amount to a break in continuity for an agency worker;
- there is no clear definition of who an agency worker is and there is some debate as to whether this would extend to workers whose services are supplied through a limited company. It is likely, however, that such workers will be exempt, as higher paid contractors;
- it seems that the compliance burden will fall on agencies rather than end users and

that any breach of the new law will be actionable by the worker against the agency.

In order for the agency to comply with its obligations, it will require full information from the end user about the pay and benefits of comparable permanent employees. End users may not be able to regularly notify the agency about any subsequent changes in the working and employment conditions of comparable permanent employees. In any claim which subsequently arises, the worker may name both the agency and the end user as a respondent to the proceedings. The terms of the contract between the agency and the end user may then become relevant.

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