

## Thursfields grows its Employment Law Team

Thursfields is pleased to announce the addition of two new solicitors to its Employment Law team.

Sarah Everton joined Thursfields in May 2009. Sarah is an experienced employment law solicitor having previously practised law in the Isle of Wight and more recently at PCB Solicitors in Shropshire. Sarah is joined by Yvonne Lewis. Yvonne qualified as a solicitor in 2008, having undertaken her training contract with Thursfields. She brings commercial litigation experience to her new role assisting in the Employment Team.

Sarah and Yvonne will work alongside Michelle Chamberlain, who is already known to many of our clients. Michelle joined Thursfields in 2006 to establish a dedicated employment law service for the Firm and will continue to develop the Firm's expertise in this area.

Nick O'Hara, Thursfields' Managing Partner, commented: "Thursfields is committed to providing local businesses with a full range of commercial legal services – employment law is a key area of expertise and growth within the Firm. The expansion of our employment law team is testament to our recent success in supporting local employers with proactive and practical advice."

## GP's "fit notes" consultation

The medical statement used by GPs for patients who need to provide evidence of sickness absence to their employer has remained largely unchanged for many years. It seems that this is soon set to change - by April 2010.

As part of its commitment to reduce sickness absence and support employees with ill-health conditions to stay in or return to work, the Government plans to replace the existing handwritten "sick note" with a new "fit note", which will be available in paper or electronic format.

The key change will be one of emphasising what the patient can do, rather than just their incapacity. For example, doctors will be able to indicate where employees are "fit for some work now". They will also have the opportunity to suggest changes to the workplace or job role. The Government is also considering removing from GPs the option of confirming that a patient is now "fit for work" and so eliminate the practice used by many employers of seeking medical confirmation of "fitness for work" before allowing the employee to return.

A 12-week consultation exercise on draft regulations to implement these plans will end in August 2009. For further details:

<http://www.dwp.gov.uk/consultations/2009/Reforming-the-Medical-Statement-consultation-28May2009.pdf>

### **DISCLAIMER**

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## Agency Workers Update

Consultation on how to implement the EU Agency Workers Directive into UK law began last month and will continue until 31st July 2009. The Agency Workers Directive was agreed by Member States in December 2008 who have until December 2011 to implement it. The current consultation process is aimed at canvassing opinion from interested parties such as employers who use agency workers, agencies and agency workers themselves.

The consultation document sets out the Government's proposals on the specific issues that have been identified as likely to be discussed when the matter is considered by Parliament. Comment is invited on proposals in the following areas:-

- Which workers should be covered (eg those finding temporary work through "employment businesses" but not "employment agencies") and which excluded (eg the self-employed or those working through their own limited companies);
- Qualifying period – a 12 week qualifying period has been agreed but how the 12 weeks will be calculated has not yet been decided - calendar weeks are proposed and comment on the effects of breaks in employment and/or changes to job role is invited;
- Equal treatment between permanent employees and agency workers in relation to:
  - working time and paid holiday entitlement;
  - basic pay and other contractual entitlements such as overtime, shift allowances and some bonuses;
- The mechanism for dispute resolution – with the temporary work agency as the primary contact in any disputes but the ability for a worker to pursue an Employment Tribunal claim if the matter cannot be resolved;
- Access to employment, collective facilities and vocational training for agency workers. This includes a review of existing laws on "temp to perm" fees;

The consultation paper can be found at: <http://www.berr.gov.uk/files/file51197.pdf>

## Challenge to "No Win No Fee" Arrangements

Many employers will have come across employees who are represented through the Tribunal process by "no win no fee" lawyers (ie only when the claimant is successful does the lawyer receive a percentage of the overall damages recovered).

Concerns have been expressed that such arrangements are insufficiently regulated leading some lawyers to exploit vulnerable clients with excessive percentages, unreasonable "lock-in" clauses and the possibility of inappropriate pressure on claimants to settle cases. The Government has recently announced that it intends to propose measures to regulate these types of arrangements and will shortly publish a consultation paper.

## Thursfields Debt Recovery Services

In the current economic climate, all late payers are proving to be a headache with bad debts seriously affecting cash flow! With our professional expertise, we can help to recover your money and ease your problems. We offer a cost effective service with fixed rates (not charges by the hour) available upon application. For details, contact Gordon Smith on 01562 512447 or email: [GSmith@Thursfields.co.uk](mailto:GSmith@Thursfields.co.uk)