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Agency Workers - Would the real employer please stand up?

We all hire temps from time to time. But when it's time to say goodbye to a temp, you might be surprised to end up facing an unfair dismissal claim. However, employment tribunals are increasingly willing to imply that the end user is the real employer....

Normally, two **contracts** are entered into - one between the employment agency and its client, and the other between the employment agency and the worker.

David's Hints and Tips for Employers

- Employment agencies can still do much to protect their position by ensuring that their terms of engagement are as tightly drafted as possible. "Whole Agreement" clauses may be helpful, provided that the terms of the contract are not deviated from in practice.

- End users can still go some way to protecting their position by ensuring that they do not get involved in matters that are the proper concern of the employment agency. For example, if a worker is suspected of misconduct, let the employment agency deal with the matter - don't discipline the worker under your own procedures.
- Consider the most appropriate method of hiring in the circumstances of each position that arises in your organisation. How long will you need someone for? Are your requirements likely to fluctuate? This should inform your decision on whether a temp is right for the job.
- Above all, remember that what you do in practice may be just as important as what the contract says. Therefore, **make sure you know what the contract says** and stick to it.