

Guidance notes for Rullion Computer Personnel client companies

Agency Supplied Independent Contractors

These notes have been prepared by the Rullion Group HR Department and aim to provide assistance in dealing with general scenarios, which our client customers may encounter when placing independent contractors on assignment via the Rullion Group.

The Rullion HR Department has extensive experience and expertise in dealing with all manner of situations concerning independent contractors and their contractual arrangements with Rullion as the recruitment business and our clients as 'end-users'.

These guidelines are offered as a generic manual to assist in the most common scenarios, however should you wish to discuss any specific situation in respect of a Rullion supplied independent contractor please refer your query in the first instance to the Rullion Consultant. Where they cannot assist you directly they will in all circumstances refer those issues to the HR Department.

Definitions:

Rullion – the recruitment business that will source human resources to undertake assignments, in line with our client's requirements. Rullion has a contractual agreement with its independent contractors in the form of a contract for services. This type of contract stipulates that there is no 'Mutuality of Obligation' for Rullion to offer work to its independent contractors or for the independent contractor to accept the work offered. This type of contract aims to ensure that there is no contract of employment in force whilst a independent contractor works under an assignment.

Note – Rullion should be involved in all dealings with an independent contractor from the inception of the assignment to the termination of the agreement. Most problems occur when client companies deal with independent contractor as they would a full-time employee. This type of action may well generate an implied contract of employment, which an Employment Tribunal would consider should a claim be made against either Rullion or its clients.

Client – the customer requiring the services of Rullion to supply independent contractors to them in order to undertake specific assignments.

Note – client companies will be responsible in all circumstances for the day-to-day management and control of the independent contractor's workload and their health and safety whilst on company premises. This will involve on-the-job training to perform the role for which they have been engaged and the provision of their daily tasks. Line managers based at client sites are requested to monitor the performance of independent contractors and report any issues in this regard back to the Rullion Consultant.

Independent Contractor – individuals whom by their own choice have decided to work as a self-employed worker placed on assignment by either Rullion or a composite company to undertake work on a contract basis.

Note – independent contractors do not receive the same employment rights / benefits as a full-time employee, however they are protected under Employment Legislation. Rullion have experts in Employment Law available and any issues in relation to independent contractors should be put, in the first instance, to the Rullion Consultant.

Safety first: speak to the Rullion Consultant for advice before undertaking any action with, including or involving an independent contractor.

Quick reference – Do's and Don'ts

Upon placing of a Rullion supplied **independent contractor**, clients are reminded:

Do

- Have an understanding of the agreement between yourself and Rullion
- Check independent contractor credentials and ensure they match with your requirements for the specific assignment
- Ensure a safe working environment as per the Health & Safety at Work Act 1974
- Make arrangements for independent contractors to be supervised
- Contact Rullion immediately if you have any queries or issues to discuss in relation to a Rullion supplied independent contractor. These may include but will not be limited to discipline, termination etc

Don't

- Provide independent contractors with training other than induction and that which is required to perform the tasks for which they were assigned
- Discipline Rullion supplied independent contractors. If you have any disciplinary issue with independent contractors, advise Rullion and we will guide you in how to take the requisite action
- Performance manage individuals. Do not hold meetings with independent contractors to discuss their performance or give feedback on their work to date
- 'Dismiss' independent contractors. If you are unhappy with the service as provided by a Rullion independent contractor speak directly to your Rullion branch who will take the necessary action to remove the individual and find an alternative to complete the assignment
- Hold any disciplinary or grievance meetings with independent contractors. If any issue arises where a disciplinary or grievance investigation would, under normal circumstances take place, speak to your Rullion contact who will advise you on the correct process
- Make discretionary payments to individuals for sick pay, non-contractual overtime payments, non-contractual early completion of work bonus' etc.
- Provide extra benefit facilities to agency supplied independent contractors e.g. a company holiday entitlement or commission or bonus schemes
- Provide company employee handbooks or employment literature to independent contractors, e.g. H&S code and company manuals.

To Discuss with Rullion Consultant prior to commencement of contract

- Provision of notice periods to independent contractors

If in doubt contact your Rullion consultant who will advise you on any issue in relation to Rullion supplied independent contractors.

Health & Safety

Client companies are responsible for the health and safety of all individuals on their premises whether they are permanent employees, independent contractors or visitors.

Client companies have a responsibility to ensure that local rules, policies, instructions regarding specific premises, potential risks related to the role and work types and any other hazard are communicated to all independent contractors prior to the commencement of their assignment. If applicable, managers of independent contractors should also ensure that the individual has the correct Personal Protective Equipment (PPE), tools or other equipment to perform their assigned role safely.

Any issues relating to the Health and Safety of independent contractors should be reported to the Rullion Consultant, in the first instance, who will advise you, as necessary, if there are any areas for concern.

The Rullion Safety, Health and Environment (SHE) Manager is available to discuss and advise upon any area of Health and Safety relating to Rullion supplied independent contractors.

Selection

Clients must be aware in all selection processes for contract work that some requirements they make could potentially be discriminatory. All should be aware of the legislation regarding sex, race, age, religious belief and disability discrimination.

Rullion consultants will advise clients who make requests, which may be considered to be discriminatory, that their requirements are potentially illegal. They will offer alternatives in these situations and advise on best practise, which should help in avoiding any potential employment tribunal claims.

Training

Client companies are responsible for providing independent contractors with specific training to enable the worker to undertake the daily tasks as required under the assignment.

No offer of training should be made to an independent contractor where there is no direct link between the training and the daily tasks as required under the specific assignment, as this may imply an employment contract.

Developmental training should not be offered to independent contractors, as this also may generate an implied contract of employment between the client company and the independent contractor, which would be considered in an Employment Tribunal should a claim be made against either the Client Company or Rullion.

Time Sheets

Independent contractors are provided with Rullion time sheets, which must be completed, as per client agreement with the relevant hours/ days worked in order for the independent contractor to receive payment. Client time sheets may be only used with prior agreement from Rullion.

The independent contractors line manager must sign off the time sheet as authorisation to confirm the record of time worked is authentic and agreed. Any fully signed time sheet submitted to Rullion will be regarded as an approval and paid to the independent contractor. It is essential that any issues or queries related to the completion of a Rullion time sheet be directed to the Rullion Consultant prior to submission.

Performance

Rullion will place independent contractors on assignment with client companies following the matching of the independent contractors skills with the requirements of the client. Line managers should monitor the performance of Rullion supplied independent contractors in order to ascertain that the placed independent contractor is fulfilling the requirements of the role to which they are assigned.

Client companies should report performance monitoring of independent contractor back to Rullion periodically, as agreed. Under no circumstances should comment on performance be provided to independent contractors, good or bad, either as a formal performance review meeting or as informal feedback. Treating an independent contractor the same as a full-time employee could generate an implied contract of employment that an Employment Tribunal may consider in the event of a claim against either the Client Company or Rullion.

Where positive feedback regarding the performance of a Rullion supplied independent contractor is provided to a Rullion Consultant, we will in all circumstances ensure that this is passed on to the individual. Positive feedback either during or upon completion of an assignment will be annotated on our independent contractor's computerised records.

It is the responsibility of the Rullion Consultant to advise independent contractors of client satisfaction or otherwise in the undertaking of an assignment. If poor performance is experienced by a client company and fed back to Rullion, we will endeavour to pass this information on to the independent contractor in order to improve their future performance on assignment with any Rullion client. Regular poor performance will however result in independent contractors being removed from our candidate database. Rullion will not place these independent contractors with any of its clients again.

Discipline & Grievance

Rullion supplied independent contractors are not employees of either the client company to which they have been assigned or Rullion and therefore do not have contractual rights regarding discipline and grievance.

Discipline

If the independent contractor performs below the client company's expectations the Rullion Consultant should be advised and the reason for the dissatisfaction should be explained. At this stage Rullion client companies have a choice to make, either:

1. To terminate the assignment of the Rullion independent contractor
- OR
2. To continue the assignment of the Rullion independent contractor

Under no circumstances should an independent contractor be invited to attend a disciplinary hearing to discuss poor performance.

Any invitation for an independent contractor to attend a disciplinary hearing will be understood at Employment Tribunal to be treating that individual the same as a full-time employee and will generate an implied contract of employment between the client company and the temporary worker.

If, following poor performance, the client company decide to continue the assignment of the independent contractor this should be confirmed to the Rullion Consultant who will note the independent contractor computerised records. Any further discrepancy by the independent contractor may result in the termination of the assignment. This will be the decision of the Client Company, with the action being carried out by the Rullion Consultant.

Grievance

Independent contractors who make a complaint, which would, under normal circumstances, be treated, as a grievance should be directed to make this complaint known to their Rullion Consultant. Rullion will, where necessary, investigate the complaint by contacting the client company to discuss the issue. If possible this complaint will be rectified with the Rullion Consultant acting as an intermediary.

Please note in cases of discrimination Rullion will send the independent contractor home, still under assignment, whilst the necessary investigations are made. Rullion HR Department should, in all circumstances, be involved from the outset of any such claim and will direct these proceedings involving the client company and independent contractor at all times.

Dismissal

Client companies whom are dissatisfied with the performance, attitude or behaviour of an independent contractor should not, under any circumstances, dismiss that individual or take any action, which may terminate the assignment.

If the assignment of an independent contractor is to be terminated, client companies must contact the Rullion Consultant to take this action on their behalf. Rullion Consultants will confirm the client companies decision to the independent contractor and advise them what they must do in line with the client company requirements e.g. the return of company property.

Notice Periods

Please contact your Rullion consultant to discuss.

Sickness

Independent contractors will not, under a contract for services be paid for sick leave. They will be entitled to claim for statutory sick pay directly via their Ltd Company or the Inland Revenue. On occasions of sickness absence the independent contractor is expected to contact both the Rullion Consultant and the line manager at the client company. If this period of sickness absence will affect completion of the assignment the client company should contact the Rullion consultant. Where it is felt necessary, arrangements may be made to terminate the independent contractor assignment, Rullion will then source an alternative independent contractor to continue the assignment.

If the client company so wishes they are able to suspend the assignment of the independent contractor on sick leave until they are fit to return to work.

Holidays

All related queries should be directed to the Rullion Consultant

Hospital, Doctor & Dental Appointments

Independent contractors will not be paid for any time off taken to attend any of the above. Should the independent contractor not inform the client company of their requirement to attend an appointment this may result in the termination of an assignment.

Independent contractors should be encouraged to make appointments either before or after their working day.

Maternity, Paternity and Parental Leave

All related queries should be directed to the Rullion Consultant, whom will advise you of the independent contractors entitlements in respect of the above leave.

In all circumstances where there is any doubt regarding independent contractor, contact the Rullion Consultant who will provide advice on how to deal with specific situations.