

The onus of OHS for temporary employees is on... who?

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According to all Acts that pertain to employment, Temporary Employment Service (TES) providers are regarded as the employer of any TES worker placed within a given organisation. However, according to the Occupational Health and Safety (OHS) Act, the TES provider is not regarded as the employer, which means the responsibility of the employees' health and safety lies with the organisation itself. This becomes a challenge due to the fact that a TES provider is responsible for the mandatory reporting and if needed, the payment of any injuries on duty (IOD) which pertain to the OHS Act. This becomes particularly relevant in high risk industries such as mining, manufacturing and warehousing to name a few.



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Despite the fact that the OHS Act states that the TES provider is not responsible for health and safety, but rather the client, TES providers still play a vital role in assisting clients with their compliance to the OHS Act. This is usually done by ensuring basic inductions based on the various industry requirements and fundamental protective equipment requirements are met.

However, over the past few years, the TES industry has adjusted its operating processes to overcome some of these challenges by becoming more involved with their client's operations. By streamlining processes and making them more transparent, the deeper level of involvement assisted in ensuring compliance and accurate reporting. Not only does this solve the problem, but it also adds value through collaboration and being part of the clients' planning and implementation of health and safety protocols.

OHS vs Covid-19

In reference to the recent Covid-19 outbreak, many organisations did not have the capacity and the insight to effectively deal with the protection of their employees. As a result, the importance of TES providers became more evident than ever. The pandemic has subsequently resulted in some organisations depending on TES providers to assist them with relevant resources. In this regard, TES providers can assist organisations with services ranging from legal expertise, healthcare, finance and training, of which organisations may not have resources for.

Health and safety is, in itself, a complicated process to implement and ensure the compliance thereof. With the addition of the coronavirus, this has become even more cumbersome to clients to manage and enforce. TES providers should be included more holistically in their clients' implementation and enforcement of health and safety regulations. In relation to the challenge stated previously, the responsibility of employee safety – whether employed permanently or contractually, can be well split between TES providers and their clients. When working together, it becomes easier to train employees on the basics of the OHS Act. They need to be able to identify hazards and risk, how to report on them and manage efficiently.

TES providers also assist with, for example, legal requirements of health and safety during a time of a pandemic. Organisations can adhere to the statutory laws in terms of appointments, however, seldom apply thought to the enforcement and operational aspects of health and safety. The TES industry can therefore play a much larger role in the health and safety of employees through regular engagement with employees and clients to discuss health and safety in the workplace. Both TES providers and their clients all need to manage their workplace protocol which helps them abide by the OHS Act.

In conclusion, health and safety is there to protect us all, whether one is in a management position or a junior role. Workers should all abide by the same rules and regulations in order to protect themselves and their colleagues against any harm or injury in the workplace. The TES industry, even though not recognised as a key player by the OHS Act, can and must play a bigger role in the health and safety of their employees and those of their clients.

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