

February 2011

HR Market News

**Wheeler
Campbell**
A RUBICOR COMPANY

Market Insights

Welcome to our first ezine for 2011!

From a market perspective it has been a **very** busy start to the year. Recruitment for both contract and permanent roles picked up after barely missing a beat between Christmas and the New Year. Regular readers will recall us talking about the frantic activity in the final weeks of 2010 - despite having predicted another busy year we admit to being caught by surprise by the sheer volume of work. There is activity in all areas of the discipline, at all levels and across sectors.

This is unlikely to come as a surprise to any of you but those candidates with change expertise continue to be in hot demand as new structures and entities form and others settle into business as usual. There is a noticeable requirement for skilled practitioners to help steer organisations through these crucial formative months. Fixed term agreements are still a feature of the contracting market to some extent but we are seeing an increase in the number of contract for service arrangements being available.

With a number of HR Manager roles having become available

recently, it has been interesting to note the trends in terms of clients' priorities when making these key appointments. There is a clear preference for candidates who can not only demonstrate a proven track record of delivery but who also possess the intangible qualities of style and fit for the organisation. These can sometimes be challenging briefs to fill but we are heartened by those who are making smart decisions and thinking carefully about the long term impact of these hires.

It won't have escaped any of you that the Government has been signalling further 'belt tightening' and, with at least one significant merger in the not too distant future, the drive for leaner, smarter, faster is going to be a permanent companion to those working both in and with public sector agencies.

It's great to be able to start the year on such a positive note although we're living on caffeine and almost didn't have enough time to put this ezine together! It's important that we say here how sincerely we appreciate our clients patience and bearing with us in this busy time. Here's to a great 2011.

Employment Law Update

BUDDLE FINDLAY

IS THERE NOW A DUTY TO REDEPLOY?

The conventional wisdom has been that there is an obligation to consider redeployment in a redundancy situation, but no obligation to redeploy. Two recent cases signal a possible change in approach.

In *Wang v Hamilton Multi-cultural Services Trust*, the Employment Court found that an employee's termination for redundancy was unjustified because the employer did not offer redeployment. The Court found that having disestablished Mr Wang's position, it was not enough for the Trust to simply invite (and indeed encourage) him to apply for a new vacancy. The new job was very similar to the job Mr Wang had been doing and the Trust admitted during the hearing that Mr Wang could do the job – albeit with some additional training. The Court found that he should therefore have been offered the new job rather than having to apply.

In another decision in 2010, *Jinkinson v Oceania Gold (NZ) Ltd*, the Employment Court found that the duty of good faith and section 103A in that case meant that there was an obligation to redeploy, even though there was no specific contractual right to redeployment.

Employers contemplating restructuring should think very carefully about any new jobs that are being created. The extent of overlap between the old and new jobs, the employee's ability to do the new job and any other pros and cons of appointing the employee will be scrutinised carefully. What remains to be seen is whether the latest changes to the Employment Relations Act, which take effect in April 2011, will restore the conventional wisdom.

For more information please contact Peter Chemis in Buddle Findlay's Wellington office on 04 498 7339 or Sherridan Cook in Buddle Findlay's Auckland office on 09 357 1858 or visit www.buddlefindlay.com

To have a further discussion about anything in this newsletter, to share suggestions or for a general chat about anything HR please feel free to contact any of us in the Wheeler Campbell HR team. We would love to hear from you.

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