

Is the left hand speaking to the right hand? An examination and evaluation of the mechanisms and controls governing the decision to employ, and to continue to employ, specialist temporary or contingent workers in a London based financial services organisation.

James Edward McGregor Watson

MBus

2012

Is the left hand speaking to the right hand? An examination and evaluation of the mechanisms and controls governing the decision to employ, and to continue to employ specialist temporary or contingent workers in a London based financial services organisation.

James Edward McGregor Watson

A dissertation submitted to Auckland University of Technology in partial fulfilment of the requirements for the degree of Master of Business (MBus)

2012

Faculty of Business and Law

## Contents page

Attestation of ownership.....	4
Acknowledgements.....	5
Abstract.....	6
Introduction.....	7
Literature review.....	9
Aims and objectives.....	25
Methodology.....	27
Analysis of interview responses.....	31
Discussion and conclusions.....	57
Reflections and limitations.....	70
References.....	73
Appendices.....	88

## **Attestation of Authorship**

I hereby declare that this submission is my own work and that, to the best of my knowledge and belief, it contains no material previously published or written by another person (except where explicitly defined in the acknowledgements), nor material which to a substantial extent has been submitted for the award of any other degree or diploma of a university or other institution of higher learning.

-----  
James Watson

## **Acknowledgements**

The author wishes to acknowledge the supervision and guidance of Dr Nevan Wright (Auckland University of Technology) who acted as primary supervisor throughout this research, and who without this dissertation would not have been possible.

## **Abstract**

This study examines and evaluates the mechanisms and controls that govern the decision to employ, and to continue to employ, temporary workers within a London based financial services organisation. This is achieved by examining a number of differing organisational aspects – namely with respect to controls surrounding the decision to engage in, and extend temporary employment assignments, and monitor performance of temporary workers.

It finds that controls and mechanisms are generally weak and as a direct consequence ineffective in supporting business strategy to employ permanent workers where possible, and in enhancing temporary worker performance. Best practise recommendations are made to encourage more robust and effective controls and mechanisms designed for leveraging human capital as a competitive advantage.

## Introduction

Human resource composition within London's financial services industry is characterised by a balance of permanent and increasingly 'specialist' temporary or contingent employees. Research suggests the use of the latter is increasing (Purcell & Purcell, 1998; Forde, 2000; Hotopp, 2000; Kalleberg, 2000; Houseman, Kalleberg, & Erickcek, 2003), and has become a permanent personnel strategy offering increased flexibility and reduced cost benefits. This challenges traditional human resource policy, making the temporary employment arrangement and its effects on the organisation an important joint management and human resource research topic. Whilst on the surface temporary assignments are from definition short in duration, roles have become increasingly on-going in nature in contrast to historic norms (Chum, 2000). This change additionally highlights that investments in human capital are now more often broken down into 'make or buy' decisions (Miles & Snow, 1984; p.46) – again challenging traditional human resource policy.

This transition raises questions concerning the control of temporary employment, and the mechanisms that guide an organisation when considering an appropriate human resource structure. Research shows that extended use of temporary workers raises legal issues, challenges cost benefits, has an effect on the internal mobility of permanent employees, and raises performance issues (Gannon, 1974; Carey & Hazelbaker, 1986; Earley et al., 1990; Barnett & Milners, 1992; Hipple & Stewart, 1996; Kalleberg et al., 1997; Monthly Labour Review, 1997; Jarmon et al., 1998; Neubert, 1998; Kalleberg et al., 2000; Smith, 2000; Ward, Grimshaw, Rubery, & Beynon, 2001; Fletcher, 2001). Other negative impacts include increasing job insecurity amongst permanent workers (Hunter et al., 1993; Walsh & Deery, 1999; Kraimer, Wayne, & Liden, 2005; Campbell 1998; Davis Blake *et al.* 2003), which leads to a deterioration in working relationship between managers and employees. Controls and mechanisms that govern 'specialist' temporary employment usage are considered to be of importance so as to minimise such issues, and to leverage human capital as a competitive advantage.

Research to determine what mechanisms exist within organisations governing the use of temporary workers in support of human resource and business strategy is limited and dated. In short extant research data is now dated and not industry specific.

This dissertation uses a case study of a large London based financial services organisation to determine the mechanisms and controls existing which govern the decisions to use, and continue to use temporary or contingent workers. It determines if there are formal structures supporting business strategy, or if as previous research suggests the process is ad hoc. Ultimately from this examination an evaluation will be conducted with the aim of developing industry best practice in terms of robust and effective control mechanisms, governing the decision to engage in, and monitor performance of specialist temporary employees.



## Literature review

### *Definition of temporary employment*

Researchers use many terms to define non-standard employment relationships such as 'temporary employment'. The term 'contingent employment' is used predominately in US and Canadian literature, while 'temporary', 'fixed-term' or 'non-permanent' employment, are all common terms used throughout European research (Connelly & Gallagher 2004; De Cuyper *et al.* 2005). Other terms used to articulate temporary employment include 'casual employment' (Campbell & Burgess, 2001; p.173), 'non-standard employment' (de Vries & Wolbers, 2005; p.505), 'peripheral employment' (Welsh & Deery, 1999; p.52), or 'marginal employment' (Rodriguez, 2002; p.968). All signify a sub class of workers, often referred to as 'just temps' (Casey & Alach, 2004; p.463).

In definition Polivka and Nardone (1989) state that temporary or contingent work is defined as 'any job in which an individual does not have an explicit or implicit contract for long term employment, or one in which the minimum hours worked can vary in a non-systematic manner' (p.27). This definition can also be extended to include independent contractors since they are not employees (Rebitzer, 1995; Summers, 1997), although some researchers have argued to exclude this group (Bernesak & Kinnear 1999; Campbell 2004; Guest 2004), since these workers are regulated by different laws.

Another more simplistic definition is 'dependent employment of limited duration' (OECD, 2002; p.170). Whilst standard employment relationships are characterised by on-going employment, in contrast temporary or contingent jobs are typically transitional in nature, often have a fixed duration, or are referred to as insecure since they are at the complete discretion of an employer (Polivka, 1996). This is clear from definitions listed above, and from empirical evidence (Segal & Sullivan, 1997a; Houseman & Polivka, 2000; Farber, 2000).

### *Increasing trend of long term 'temps'*

However, whilst in the past such workers might have been used to staff special projects, fill in for regular employees who are absent, or assist with an increase in demand (Houseman, 1997; Davis-Blake & Uzzi, 1993), their use now appears to constitute a structural organisational response to changing conditions – thus roles are often on-going. Positions once filled by the traditional 'temp' in low skilled clerical positions, are now often filled with 'specialist' or skilled staffing in professional and technical occupations (Chum, 2000; Hippel & Stewart, 1996) that can last for extended periods of time – sometimes year after year (Drucker, 2002). This is particularly prevalent within London's financial services industry with many roles providing indefinite employment.

Researchers have identified the growth in temporary employment, beginning in the 1980's and moving into the mid 1990's, as one of the most spectacular and important evolutions in Western working life. Forecasts indicate that this trend will continue, although at a more moderate pace (Peak & Theodore, 2004; Sansosi, 1997; Schellhardt, 1997; Campbell & Burgess 2001; Guest 2004; OECD, 2002). Others suggest the use of temporary workers will probably accelerate (Drucker, 2002). UK research supports this hypothesis (Purcell & Purcell, 1998; Forde, 2001; Hotopp, 2000; Kalleberg, 2000; Houseman, Kalleberg & Erickcek, 2003), whilst in the US placements through temporary work agencies are also increasing (Sly & Stillwell, 1997; Autor et al., 1999; Forde & Slater, 2001). Interestingly 29 percent of all temporary work or agency work in the UK is within the financial services industry (Storrie, 2002), making it one of the largest employing sectors.

Further research indicates that many temporary employment agencies are increasingly entering into long term contracts with firms, suggesting that the use of temporary workers has changed human resource policies (Kramar, 1999), and become a permanent personnel strategy (Carnoy et al., 1997; Nollen, 1996; Von Hippel et al., 1997), linked to business strategy (Purcell & Purcell, 1998). This challenges the historical opinion that temporary employment is often seen as a sort of second hand employment by governments, unions, organisations and employees (Boyce et al., 2007).

Forde (2001) investigated the roles that agencies play in shaping labour market developments as a result of this demand. In contrast Defillippi and Arthur (1994) explored the effect on workers shaping the temporary market. They argue that the increase in demand has created what they term 'boundaryless' career options for those with the relevant skill set, or as an alternative to the standard employment relationship (Vosko 1997; p.73), whilst others talk of 'the death of the company career' (Inkson, 1999; p.19). There is also evidence these individuals express a desire for regular open ended jobs with no end date (CIETT 2002) which on the surface supports the increasing trend of longer temporary assignments. A skilled labour market has therefore been created opposing historical norms (Boyce et al., 2007). Research has identified that individuals in this market are often motivated to work for an employer of choice when accepting a temporary assignment and that this motivation may be more important than the degree of job security (Aronsson & Göransson, 1999).

This change in employment relation conditions makes temporary employment, and its effects on the organisation, an important joint management and human resource research topic. It also opens up questions concerning the control of temporary or contingency employment, and the mechanisms that guide an organisation when considering a human resource structure. Their on-going or extended use heightens concerns with respect to control.

### *Reasons for using temporary workers*

Research has shown many reasons why an organisation might use temporary or contingent staffing arrangements. Contingent workers can import valuable knowledge into a firm (Matsui & Hill, 1998). Often they are used as a short term response to uncertainty associated with changing technological and external market conditions (Gannon, 1974; Gannon & Nollen, 1997), or to adjust the size of the workforce to combat changes in demand or volatility in the business cycle (Atkinson et al., 1996; Cully et al., 1999; McGregor & Sproull, 1992; Allan, 2002; Henricks, 1997). The need may be borne out of necessity to temporarily replace

permanent staff who are on sick leave (Abraham 1990, Autor 2003; Houseman et al. 2003, Heinrich et al. 2009).

Other reasons might include pressures to reduce or externalise labour costs (Pfeffer & Baron, 1988; Lee, 1996; Cappelli et al., 1997; Abraham 1990, Autor 2003; Houseman et al. 2003, Heinrich et al. 2009), training costs (Krueger, 1993), to generate internal flexibility in order to meet job security and redeployment targets for core staff (Atkinson, 1984; Abraham 1990, Autor 2003; Houseman et al. 2003, Heinrich et al. 2009), or in an effort to avoid redundancy costs or unfair dismissal claims should employees need to be laid off (Heery, 2004; Campbell, 2005; Olsen, 2005; Connell & Burgess, 2002; Allan, 2002; Golden & Appelbaum, 1992; Gunderson, 2001). It has also been found that organisations engage in their use as a cheaper alternative to recruitment and selection policies by externalising these costs (von Hippel et al., 1997; Allan, 2002; Gunderson, 2001). Additionally engaging in their use enables employers access to specialist knowledge, and allows critical resources to be redirected to the development of core capabilities (Quinn, 1992). Further research has indicated a use to transfer a number of direct costs of employment (e.g. sick pay, holiday pay) to the worker (Allen & Henry, 1997; Ward et al., 2000), and to reduce fringe benefits (e.g. health benefits, pensions, leave entitlements) (Rebitzer, 1995). Others suggest firms may use temp assignments to audition workers for regular jobs, or 'temp to permanent' opportunities (Carey & Hazelbaker, 1986; Autor, Levy, & Murnane, 2000; Houseman, 2000; Aronsson *et al.* 2002; Connelly & Gallagher, 2004). Importantly governments (Güell & Petrongolo, 2007) and temporary workers themselves (Giesecke & Gross, 2003) consider temporary employment as a stepping-stone to permanent employment (Kvasnicka, 2005).

Other more controversial reasoning might include avoidance of payroll taxes. Many organisations misclassify their employees as 'temps' or independent contracts for extended periods of time to avoid these costs (e.g. *Vizcaino v Microsoft*). In this example Microsoft was required to treat a group of contractors (who worked on projects often exceeding two years) as employees for tax purposes (Monthly Labour Review, 1997). The research indicates the fine line that organisations tread

in this employment relationship – each organisation with its own internal policies and interpretation on government legislation. Further research could determine how legislation should be interpreted helping to provide consistency within the financial services industry and beyond.

Whilst all of these reasons are valid, the common theme driving the desire to use temporary workers from an organisational perspective is a demand to increase flexibility and innovation, whilst reducing labour costs and administrative complexity (Brewster et al 1997; Burgess & Connell 2006; Kalleberg et al. 2003; Matusik & Hill 1998; Von Hippel et al. 1997; Vosko 1998; Remery *et al.* 2002, Korpi & Levin 2001; Drucker, 2002; Miles & Snow, 1992; Snow et al., 1992). Their extended use however raises legal questions, challenges cost benefits, and increases other negative organisational impacts. Furthermore it challenges traditional HR practices.

#### *The cost of using temporary workers*

Reducing employee costs is an essential aspect of effective human resource management. This is particularly relevant in a competitive global market (Allan, 2002). However research does not indicate that 'temps' are always cheaper. Kandel and Pearson (2001) suggest temporary workers may actually be more expensive due to increased marginal costs. There may also be reductions in productivity to consider as temporary workers take time to learn the job (Allan, 2002; Stratman et al., 2004; Foote, 2004). Salaries or wages of temporary or contingent workers vary considerably by occupation, however literature indicates the total hourly cost of temporary workers may be more than permanent employees (Carey & Hazelbaker, 1986; Gannon, 1974; Kalleberg et al., 1997; Kalleberg et al., 2000; Hipple & Stewart, 1996; Allan, 2002; Kandel & Pearson, 2001; Stratman et al., 2004; Drucker, 2002). In 1995 United States firms paid on average 40 percent more for temporary workers than permanent employees on wages (Segal & Sullivan, 1997b). These costs will undoubtedly increase in the UK across the temping industry following the introduction of the Agency Workers Directive (AWD) and Regulations in October 2011, with organisations now required

by law to pay temporary workers the equivalent in wages to that of permanent employees. Marginal costs will subsequently exceed permanent staffing costs.

Financially independent contractors or 'temps' tend to prefer this working arrangement in contrast to the more standardised employment relationship, with many seeking lucrative temporary job opportunities (Cohany, 1998; Sullivan, 1999). Wheeler and Buckley (2000) explored the motivation process of temporary employees further, whilst Finegold, Levenson, and Buren (2005) found temporary employment provided a way for individuals to improve their skill set. In contrast Parker, Griffin and Wall (2002) investigated both positive and negative effects on individuals that were employed on a temporary basis.

Whilst research indicates that temporary employment costs are more, it does not explain why some organisations allow temporary employment for indefinite periods of time within the same role. If it costs more to employ a temporary worker than a permanent employee, this could be part of a wider business strategy, or as a negative impact – a lack of planning on behalf of the organisation. No research appears to have been conducted in relation to these questions. Control is therefore raised as a central theme when employing temporary workers.

#### *Further negative impact of using temporary workers*

The use of temporary workers has been found to unintentionally affect the working conditions of permanent workers (Broschak & Davis-Blake 2006; Davis-Blake *et al.* 2003; Liukkonen *et al.* 2004; Wright & Lund 1996). Their use can impact on the mobility of permanent workers in lower ranks (Geary 1992; Kalleberg 2000; Barnett & Miner's, 1992) and increase mobility amongst higher ranks (Barnett & Miner's, 1992). Ward, Grimshaw, Rubery, and Beynon (2001) argue that temporary employment use has the potential to affect staff turnover rates with an absence of opportunities for internal progression. In hiring temporary agency workers to protect the employment status of an organisations core staff, research has also found that managers may increase fear of job insecurity (Hunter et al., 1993; Walsh & Deery, 1999; Kraimer, Wayne, & Liden, 2005; Campbell 1998; Davis Blake *et al.* 2003). This maybe because permanent workers feel the pool of potential

rivals has increased – especially so for those at the lower end of the organisational hierarchy (Broschak & Davis-Blake, 2006). Temporary worker use may therefore make permanent employees feel like they are easily replaceable (Campbell 1998; Davis Blake *et al.* 2003).

Byoung-Hoo and Frenkel (2004) found that temporary workers may receive little support from their permanent co-workers. It's possible this may stem from uneasiness amongst permanent workers. In contrast the use of temporary workers may change the nature of tasks assigned to permanent workers (Ang & Slaughter 2001; Pearce, 1993) with less complex tasks being delegated to temporary workers (Connelly and Gallagher 2004; Davis-Blake & Uzzi 1993). This implies increased levels of responsibility, with supervision demands levied on permanent workers, without necessarily an increase in reward, and thus leading to increasing perceptions of workload among permanent workers (Pearce, 1993).

Further research indicates that blending the workforce with standard and nonstandard workers worsens the relationships between managers and employees, decreasing standard employee loyalty and organisational commitment (De Jong & Schalk 2005; Pearce, 1993; Rigotti & Mohr 2005; Torka & Van Riemsdijk 2001; Davis-Blake, Broschak & George, 2003; Klein Hesselink *et al.* 1998; Coyle-Shapiro & Kessler, 2002; De Gilder, 2003; Guest *et al.* 2003; Van Dyne & Ang, 1998; Chambel & Castanheira, 2006; Eberhardt & Moser 1995; Forde & Slater, 2006; Krausz & Stainvartz, 2005; Sverke *et al.* 2000), and consequently leading to lower levels of productivity and performance (Ang & Slaughter, 2001; George, 2003; Pearce, 1993; Kalleberg, 2000; Nollen & Axel, 1996; Van Dyne & Ang, 1998). Others argue that since temporary positions are of a fixed duration that there is little incentive for temporary workers performing beyond the minimum job requirements (Moorman & Harland 2002). This research was however based on 'temp' employment in its truest sense of the word rather than 'specialist' temporary employment. Whatever the negative impact, research has shown that effects can be reduced or in the least moderated if permanent workers understand the reasons for employing temporary workers and that the organisation does not intend to threaten their interests (Kraimer *et al.*, 2005).

The above research is however contested with other studies in contrast showing no significant difference between temporary and permanent workers with respect to performance and organisational commitment (De Cuyper & De Witte 2005; Ellingson *et al.* 1998; Pearce, 1998; Millward & Breweton, 1999; Jarmon, Paulson, & Redne, 1998; De Witte & Näswall 2003, Tansky *et al.* 1995; Van Breukelen & Allegro 2000;). In some cases performance and organisational commitment has been shown to increase (De Cuyper & De Witte 2005, De Witte & Näswall 2003; McDonald & Makin 2000; Engellandt & Riphahn, 2005; Van Breukelen & Allegro, 2000). This is particularly relevant for long term temporary workers who are likely to put in extra effort when compared with those on short term contracts (Engellandt & Riphahn, 2005).

Additionally it has been argued that temporary workers are highly motivated to gain permanent employment. Thus this motivation encourages high levels of cooperation and performance within temporary workers (De Cuyper & De Witte 2006; Moorman & Harland, 2002; Van Dyne & Ang, 1998; Von Hippel *et al.* 1997; Connelly & Gallagher, 2004; Feather & Rauter, 2004; Mauno *et al.* 2005). Others argue that most temporary workers perform the exact same job as permanent employees (Beard & Edwards 1995; Sverke *et al.* 2000) which may go some way to explaining why there are no significant differences between temporary and permanent workers in many studies.

It is not clear from research if the extensive use of temporary workers is sustainable (Ward, Grimshaw, Rubery, & Beynon, 2001). What is clear is that there are impacts on the organisation in terms of financial performance, and in terms of organisational dynamics through their extended use. However it does not appear that the on-going nature of temporary employment in respect of a single position has been investigated in terms of the impact on departmental or organisational performance.



### *The seemingly ad hoc use of temporary workers*

Workforce planning requires analysis in which the rates of change in supply and demand for a specific job or skill are analysed and extrapolated through time (Mackay & Lee, 2005). Freyen (2010) goes on to state that this requires a vision where future requirements in support of overall strategic goals are assessed, and information control where future requirements are projected – in view of having the right people in the right place at the right time with the right skills (Anderson, 2004; Pynes, 2004). Anderson (2004) expands planning further to include labour supply considerations and a subsequent gap analysis to determine how the supply demand gap can be bridged. It has been argued that workforce planning can be more efficient when focused on the business unit rather than managed at a higher hierarchical level (Ripley, 1995; Simon, 2003), although Anderson (2004) and Young (2003) suggest planning can take various paths and should be adopted to meet differing circumstances.

Whilst this requires significant strategic analysis, research suggests the use of temporary workers may not be a planned HR strategy, but instead may emerge as an ad hoc response to a range of pressures for change (Cooper, 1995; Gannon, & Nollen, 1997). Other research suggests that the use of 'temps' which was designed as a short term policy, has the potential to become institutionalised into corporate and local managers employment practices (Ward, Grimshaw, Rubery, & Beynon; 2001). Most Human Resource managers and even fewer human resource departments are true partners with line managers in running the business (Hiltrop, 1999), despite the leveraging of human resource as a competitive advantage being a companywide responsibility (Hiltrop, Jenster, & Martens, 2001). Again this may indicate that further research is needed to determine what the mechanisms or controls are for line managers in decisions to employ a permanent or temporary employee. A study would identify if there is a planned HR strategy or if the process is indeed ad hoc. Failure to have effective controls and mechanisms could have significant implications on organisational performance – hence the importance to research into this unexplored domain.

### *The triangular employment relationship*

The defining characteristic of the temporary employment industry is the triangular employment relationship (Cordova, 1986; Moberley, 1987; Gonos, 1997; Vosko, 1997) where the temporary agency is the legal employer, whilst the organisation sourcing labour acts as supervisor to the temporary employee. To avoid joint employer legal issues (and thus being liable for some employer responsibility) companies that employ temporary workers often use buffers to differentiate the way they treat temporary and regular employees (Jarmon et al., 1998). The most severe buffer is time, specifying that the 'temp' must leave after a fixed time period (Smith, 2000).

From the authors own experience working within the industry, Deutsche Bank and Barclays Bank both have policies stipulating that 'temps' cannot work in a temporary capacity for more than 51 weeks. Other organisations have similar policies with a two year 'temp' window, or no policy at all – effectively allowing temporary workers to work indefinitely for an organisation within a given role. Regardless of buffer policies or not, it fails to prevent management from replacing a temporary employee 'like for like' with another 'temp'. This again poses the question if the role is actually temporary, or again lack of planning on behalf of the organisation or line manager.

### *Legislation governing the use of temporary workers*

The well-being of temporary workers has been a continuing cause for concern within the United Kingdom (Slater, 2003; Forde & Slater, 2005). Studies have identified many negative impacts on workers within this sector (Parker, Griffin & Wall, 2002). In more recent years legislation has been introduced to ensure a temporary worker is not treated worse, in terms of basic working conditions than a comparable permanent worker (Burgess & Connell, 2002). The Agency Workers Directive (AWD) and Regulations introduced in October, 2011 addresses some of these concerns with organisations obligated to ensure temporary workers receive the same basic entitlement to employment and working conditions as if employed directly by an organisation after 12 weeks employment in the same position.

These rights concern key elements of pay, (such as basic pay, overtime, or bonuses linked to individual performance, but not occupational sick pay, pension or family benefits such as maternity leave); the duration of working time, night work, rest periods and breaks, paid annual leave and paid time off for antenatal appointments (James, 2011). With respect to bonuses the impact on the financial sector could be significant. There are however many different types of bonus or commission payments – the key question being whether the bonus, incentive payment or reward, is directly attributed to the amount and quality of work done by the agency worker. For any other reason it falls outside the scope of the entitlement. Workers are additionally entitled to access organisational facilities and information relating to internal job vacancies from day one of their assignment. Facilities might include such things as canteen, childcare facilities, medical centre etc.

This change will in time have a tremendous impact on how organisations utilise temporary workers. For example, in the past some employers have continually renewed the contract of a temporary worker to keep a particular member of staff over an extended period of time – particularly prevalent during recruitment and overtime restrictions (Conley, 2002). Whilst this used to have distinct advantages for an employer, under new legislation there is little advantage. Certainly extending assignments beyond 12 weeks confers the same basic employment rights to a temporary worker as if they were permanently employed. These legislative changes are likely to alter the shape of the labour market as previous research has identified that as temporary workers gain better employment rights, they are likely to become less attractive to employers (Biggs, Burchell & Millmore, 2006; Abraham, 1990, Autor, 2001). Research is however yet to be conducted post implementation of the AWD in October 2011.

Other studies have shown that in a tightening labour market, temporary work agencies are likely to be left with low-skilled workers or with workers who prefer flexible working conditions (Houseman et al. 2003). This may not necessarily be a factor for UK organisations in today's economic climate where supply is abundant, but given time will become so as the UK moves into more prosperous economic

growth. Thus a combination of legislative changes, and reshaping of the temporary labour market, will undoubtedly force organisations to change how they utilise 'temps'. Internal controls are therefore an important component ensuring 1) obligations under the law are being sufficed, 2) that 'temps' are being used efficiently, and 3) that the negative impact from their use on the internal workforce is minimised.

### *Performance appraisals of temporary workers*

Performance appraisals are one of the most important human resource practices (Boswell, & Boudreau, 2002; Judge Ferris, 1993), and appear to be a heavily researched topic (Fletcher, 2002). Their use is to assess employees, to develop employee competence, enhance employee performance, and attribute rewards to employees (Fletcher, 2001). Goal setting and feedback are key performance appraisal activities in any organisation (Earley et al., 1990; Fletcher, 2001; Neubert, 1998). However from the authors own experience having worked as a temporary employee in several UK financial institutions over a number of years – worker performance was never formally assessed, goals were never set outside standard role objectives, and performance feedback was never formally communicated. One difficulty in administering performance is that organisations are restricted by legislation governing temporary employment, with a requirement to clearly define the temporary worker employer relationship. Providing formal feedback has the potential to cloud this relationship and open legal issues. However without this mechanism temporary or contingent workers are not provided an opportunity to develop competencies or enhance performance. This challenges the strategic decision to use temporary workers on an on-going basis if performance and competencies cannot be enhanced through effective mechanisms.

Peck and Theodore (1998) have stated that temporary recruitment agencies may take over supervision and performance monitoring at the high end of the temporary help industry, however from the authors own personal experience this has not been seen. Performance monitoring is not a requirement, further reinforcing the importance of evaluation mechanisms to support human resource

policies. Additionally, whilst research has indicated that temporary employees do not necessarily lack commitment to an organisation, further research could determine if the lack of appraisal and goal setting mechanisms has a detrimental impact on departmental and organisational performance.

Koh & Yer (2000) and Smith (1988) suggest that performance evaluation and monitoring should be considered when using temporary workers. Other research suggests that the proper monitoring of temporary worker performance is an essential activity for human resource managers to conduct and should not be the sole responsibility of the temporary worker supplier (Feldman et al., 1995; Foote & Folta, 2002). It may however be inappropriate to fully integrate temporary workers into the employer's appraisal system which extends to individual and personal development. This could additionally cloud the employment relationship and has the potential to cause legal issues.

To effectively evaluate performance, Smith (1988) suggests that clear performance indicators should be set so the temporary worker knows precisely what is expected of them within the role they are employed. He concludes by saying that once performance indicators are established, appropriate appraisal techniques should be determined to provide the worker with clear performance feedback, leading to an appropriate corrective or developmental action plan that improves performance. Whilst this recommendation if actioned could represent a burden on human resource managers, marginal costs associated with employing temporary workers effectively offset the fixed costs of administering this supervision (Gunderson, 2001). What is clear is that without a performance appraisal system for temporary or contingent workers, controls governing the use of temps, through a defined human resource and business strategy, are of paramount importance in order to facilitate maximising human capital as a competitive advantage.

### *Human Capital and knowledge management*

This shift away from more historical Human Resource theory and practice, doesn't fit with the way most organisations are designed to function. Additionally it highlights the fact that, as with other capital investments, the

management of human capital often can be broken down into "make-or-buy" decisions (Miles & Snow, 1984; p.42). Organisations may internalize employment and build the employee skill base through training and development initiatives designed to yield future returns (Becker, 1964; Tsang, Rumberger, & Levine, 1991), or externalize employment by outsourcing certain functions to market based agents (Rousseau, 1995). Expanding on the later, specialist knowledge is often imported into an organisation by way of agency worker (Matsuik & Hill, 1998; Drucker, 2002). The term 'knowledge worker' was proposed by Drucker (1989) to describe individuals that carry knowledge as a powerful resource which they, rather than the organisation own. In essence capital is invested by importing that knowledge. On the surface from an employee perspective the practice appears to contradict the old cliché that 'people are our greatest asset.' Instead, it postulates that 'people are our greatest liability' (Drucker, 2002; p.73). Hence the conflicting paradigms organisations face when attempting to combine internal and external knowledge bases.

Despite the above, there appears to be no hard and fast rule in terms of what strategy business should take. Organisations appear to be exploring different employment modes to assign work (Rousseau, 1995; Tsui, Pearce, Porter, & Hite, 1995). Some theorists advocate the benefits of internal development of skills and capabilities (Bettis, Bradley, & Hamel, 1992; Hamel & Prahalad, 1994; Lei & Hitt, 1995), whilst others argue toward externalisation (Quinn, 1992; Snow, Miles, & Coleman, 1992). Little research appears to have been conducted in terms of modelling combinations of the two, since this is a relatively recent change in phenomenon, and because organisations differ – what might be right for one, might not be right for another. Potential benefits of internal development and employment include greater stability and predictability of an organisations resource base in terms of skills and capabilities (Pfeffer & Baron, 1988), better coordination and control (Jones & Hill, 1988; Williamson, 1981), enhanced socialization (Edwards, 1979), and lower transaction costs (Mahoney, 1992; Williamson, 1975). These contrast with the potential benefits of employing temporary workers previously discussed. There are however trade-

offs with each employment mode having its own associated cost. Internalisation may increase the stability of human capital, but as a direct trade-off it incurs bureaucratic costs to administer the employment relationship (Jones & Wright, 1992; Rousseau, 1995). Additionally it restricts an organisations ability to adapt to environmental changes. In contrast when externalising – the continued reliance on temporary workers for short term purposes may mitigate the development of core skills and capabilities critical for long term organisational performance (Bettis et al., 1992; Lei & Hitt, 1995).

The mode chosen to invest in knowledge is however somewhat irrelevant. Drucker (2002) explains that 'what's critical is the productivity of capital' (p.76). In his 2002 article for the Harvard Business Review he states that increasingly, the success and survival of every business will depend on the performance of its knowledge workforce. In order to excel and leverage investment in human capital as a form of competitive advantage – knowledge workers must be managed for greater productivity. He goes on to state that every organisation must take management responsibility for all the people whose productivity and performance it relies on. This includes temporary and contingent workers since they are a capital resource critical to organisational performance. This requires getting to know them and being known by them; mentoring them and listen to them; challenge them and encourage them (Drucker, 2002). Silver (2000) found that managing knowledge workers resulted in amplified business value, leading to increased organizational success and competitive edge.

### *Literature review summary*

In summary there are many reasons why an organisation might opt to engage in the use of temporary workers. It is found from the literature review that there is an increasing trend in their use, and that assignments are often on-going in nature. A significant proportion of these workers reside within the UK financial services industry. However the extended use of temporary staff has the potential to increase cost and impose other negative aspects on organisations – ultimately leading to an impact on financial performance.

The literature indicates a seemingly ad hoc response by organisations when engaging in their use, which on the surface appears to indicate inadequate control mechanisms supporting the decision to engage, and to continue to engage in their use. No research has however been conducted in this field. A recent change to legislation giving temporary workers the same statutory rights as permanent employees heightens the need for robust and effective control mechanisms to safeguard against detrimental impacts.

Additionally the literature shows that there is in general a lack of performance appraisal to support the use of temporary workers, thus competencies and job performance are unlikely to be enhanced. This challenges the strategic decision to utilise temporary workers indefinitely or for extended periods of time, since there appears to be no mechanism or control to support the capital investment in their use. Again no research has been conducted with respect to these mechanisms and controls. Therefore, this dissertation attempts to answer the question 'what are the mechanisms and controls that govern the decision to employ and to continue to employ temporary or contingent workers within a London based financial services organisation'.



## **Aims and objectives**

This research is based on a case study of a large financial services organisation in London. The findings and recommendations will be of interest to any service organisation employing temporary workers.

The objective of this study is to identify the mechanisms and controls that govern the decision to employ, and to continue to employ, temporary workers within financial services, and to make best practice recommendations in terms of robust and effective control mechanisms, governing the decision to engage in, and monitor performance of specialist temporary employees.

The objective will be achieved by investigating a number of differing organisational aspects. These include identifying line managers and HR managers awareness of employment law with respect to engaging in the use of temporary workers in the UK, and ascertaining their understanding of legal obligations required under the law. Through this examination steps taken by the organisation to ensure compliance will be identified, as will the degree of partnership between HR and line managers in this respect.

Additionally the study through identification of the layers of required approval within the organisational hierarchy in the decision to engage in the use, and continued use of temporary workers, will determine gaps (if any) in this process through interviews with line managers and HR managers. It will aim to find why the organisation might engage in the use, and continued use of temporary workers, and determine if there is a defined human resource and business strategy. Furthermore the study intends to ascertain if when deciding to recruit for a temporary position, if the initial length of assignment is considered in the decision making process, and if at any point there is a transition where a role might move from being considered temporary to permanent. Mechanisms to reassess business needs, with the view of either disestablishing the temporary relationship, or retaining knowledge at the end of a temporary assignment will

be examined. Likewise it will be established if a worker is retained whether the position will be temporary or permanent.

In this respect (the on-going use of temporary workers), this study aims to identify if policies exist to control or prevent extended use of temporary workers in a single position, or limit employment in a temporary capacity within the organisation beyond a defined point. Mechanisms are also explored with respect to controlling and challenging the on-going nature of temporary roles. Controls to prevent the on-going use of temporary workers that have previously turned down permanent employment opportunities within the organisation are also examined. Key performance indicators (KPI's) are a further consideration and it will be questioned as to if KPI's are established for long serving temporary workers, and if there are formal mechanisms to appraise temporary worker performance. Furthermore it aims to identify if feedback is formally communicated in an effort to enhance temporary worker performance.

Overall this study aims to identify if line managers are true partners with human resource managers in this process, or if the process is ad hoc as previous research suggests. Ultimately through identifying and evaluating the effectiveness of what mechanisms and controls exist, changes (if any) will be recommended, encouraging more robust controls and mechanisms designed for the purpose of maximising human capital as a competitive advantage.

## **Methodology / Research design**

This research consisted of an exploratory basic study using triangulation to validate findings. Triangulation was achieved through the employment of:

- Literature review and secondary data
- Phenomenological methodology through the use of semi structured interviews
- The researchers own experiences, observations and reflections, whereby the researcher become a research instrument.

The research was a combination of qualitative and quantitative survey methods through semi structured interviews. The positivistic approach to research sees that the researcher is independent of the research being conducted, has an emphasis on measurement, and looks for facts or causes of social phenomena that explain behaviours to test hypothesis. Thus quantitative research data gives specific and precise measures (Hussey & Hussey, 1997; Neuman, 2000). Critics of the positivistic approach argue that it reduces people to numbers and generalises from sample to population (Hussey & Hussey, 1997; Neuman, 2000; Cavana, Delahaye, & Sekaran, 2001). The phenomenological paradigm sees researchers being part of the research process (Ticehurst & Veal, 2000). This can apply when the researcher includes research of their own organisation (Hussey & Hussey, 1997). Triangulation was achieved through taking findings and comparing one research approach to another (Hussey & Hussey, 1997; Cavana, Delahaye, & Sekaran, 2001).

In addition to the collection of data from interviews, internal policy documents and procedure manuals from the organisation as a whole and from each operating department (if any) were sighted. External documents including employment regulations and legislation were additionally obtained and sighted. Examining these documents assisted in identifying if there were gaps between

written procedural documentation and what occurred in practice. To analyse the collected data Grounded Theory (Glaser & Strauss, 1967) was used as a generalist framework from which to examine, code, and interpret the collected data. It should be noted however that it was not used or intended to be used to generate theory in this dissertation. Grounded theory was simply utilised to provide a mechanism for coding to be conducted, and to determine relationships within the collected data.

Grounded Theory is the most widely used framework for analysing qualitative data (Bryman & Bell, 2007), and enables a person to capture complexities within the data (Locke, 2001). Additionally it has been suggested that its use can 'facilitate an appreciation among organisational members of their situations' (Bryman & Bell, 2007; p.592). In this respect since the research questioned and explored factors governing the decision to employ, and to continue to employ temporary and contingent workers – grounded theory was deemed an appropriate framework to use. Additionally once results are published, it is likely the organisation that participated, and other organisations, will benefit from the significance or relevance in these findings.

It was originally planned to conduct interviews across five leading London financial institutions, however due to a reluctance of organisations willing to be involved in this study, a decision was taken to explore in depth a single leading London financial services institution by way of case study. A case study entails the detailed and intensive analysis of a single case – concerned with the complexity and particular nature of the case in question (Stake, 1995). Within this organisation a total of seven people were interviewed. Three line managers from three different operating divisions, plus three Human Resource managers from each of these respective divisions were interviewed by the writer. One further Human Resource manager was interviewed from the organisations temporary recruitment desk. Interviews were sanctioned by the organisation after ethics approval had been obtained by the AUT University Ethics Committee. These were conducted face to face, in a quiet and private meeting room – preventing the interviewee from being overheard and encouraging a

more open exchange of information to be shared. Additionally face to face interviews provided a more personalised approach in the collection of data, and allowed the writer to engage with the interviewee – ascertaining interpersonal aspects such as knowledge, willingness to provide information, and where there were hesitations possibilities of gaps between procedure and actual practice.

The number of interviewees were considered for the size of the organisation (the London office employs approximately 6,500 people of whom approximately 8 per cent are temporary workers) to be sufficient to identify themes and practices across three of the organisations operating divisions. Whilst the collection of data from just a single financial institution operating within the London area is a limitation, the findings are sufficient to be of interest and useful for comparative purposes in a planned future study. Interviewing both human resource management and line managers enabled the writer to ascertain if there were potential inconsistencies in statements between the departments – and thus identify if existing controls and mechanisms were effective, or if gaps in practice and procedure reduced, or prevented the effect these controls and mechanisms might normally have.

Interviews were semi structured, similar to those carried out by Willman, Renton-O’Creevy, Nicholson & Soane (2002) and provided an opportunity for interviewees to freely describe the temporary recruitment process, the application of controls, and supporting mechanisms. Interviews were tape recorded to enable a thorough and detailed analysis of what an interviewee said, to ensure interviewee answers were captured in their own terms, and to assist in the recall of responses. Some structured questioning was necessary to identify how each department characterised the nature of the temporary employee employer relationship, and to ascertain policies defining this relationship. Structured questions aided in reducing interview variability and enabled reliable comparisons to be made between operating divisions.

To assist in recording and conducting the interviews three information forms were used. These include a general information fact sheet – to record general

information about the interviewee, an interview guide – providing structured and open ended questions for human resource managers and line managers, and an after interview notes form – to recall how the interview went, impressions, and areas of further interest. Questions that formed part of the interview guide were not referred to in a restrictive manner. There was significant leeway in how questions were responded to (Bryman & Bell, 2007).

Questions were divided into two sections – concerning mechanisms and controls in the decision to engage in temporary employment, and concerning mechanisms and controls in relation to temporary performance appraisal. Both sections facilitated responses that assisted in ascertaining what mechanisms and controls existed within the organisation – from which analysis was conducted to evaluate value and effectiveness. Whilst most of these questions are examples of introducing, direct, structured, and probing questions – indirect, interpreting questions and silence where appropriate that Kvale (1996) suggests, were additionally employed. Statistical Package for Social Science (SPSS) and EXCEL spread sheets were used to tabulate interviewee responses for analysis.

Hair et al. (2007) advise that when analysing qualitative data the objective is to identify, examine, compare and interpret patterns and themes (p.291). They find that data collection and analysis often are concurrent, thus analysis and theory development are closely related. The use of SPSS and Excel spread sheets facilitated the analysis of qualitative data as per the frame work of Huberman and Miles (1994) of: Data collection – Data reduction – Data display – Conclusions, drawing/verifying.

The authors own work experience as a 'temp' within London's financial services industry was of benefit in formulating interview questions and in showing empathy with respondents throughout the interview process. As found by Hussey and Hussey (1997) and the phenomenological paradigm, this own experience enabled the author to some extent to get 'inside the minds' of respondents and to see the world from their view point (p.46).

## **Analysis of interview responses**

### *Line manager and HR awareness of temporary worker UK employment law*

Participants were asked if they could name any acts of legislation governing the use of temporary workers. This aimed to identify the level of awareness amongst respondents of legislation concerning the use of temporary workers.

- Of the three line managers interviewed none were able to name a single act of legislation governing the use of temporary workers in the UK.
- In contrast all three HR managers interviewed were able to name more than two acts governing temporary worker usage, including the recently adopted Agency Worker Directive (AWD) and Regulations in October, 2011.

On the surface this signals the heavy reliance line managers have on HR to provide guidance when engaging in the use of temporary workers. HR managers as expected had excellent knowledge that legislation existed. However, simply being able to name acts of legislation in itself does not necessarily indicate knowledge, or lack thereof, of what the acts entail. Awareness of obligations under the law is a fairer assessment.

### *Knowledge of obligations under the law when engaging in the use of temporary workers*

Participants were asked if they were aware of any employer obligations under the law in an effort to ascertain understanding, and steps taken by the organisation to ensure compliance.

- Of the three line managers interviewed all appeared to have a reasonable understanding of obligations to clearly define the temporary employment relationship under the law. On the surface HR does appear to have provided sufficient guidance in this respect to line management.

- All three line managers were aware of the period of service where increased employment rights transferred to temporary workers after 51 weeks. However none were aware of recent law changes with respect to AWD legislation and additional obligations under the law which commence after 12 weeks.
- Although each line manager was able to speak freely about the organisations policies that define the temporary employment relationship, each manager spoke of a reliance on HR to provide guidance with respect to these matters.
- As expected all three HR managers were able to name acts of legislation concerning temporary worker usage, and two of the three were able to discuss numerous obligations under the law, including the newly adopted AWD.

It is interesting that changes in legislation (AWD), and thus obligations under the law, have not been communicated by HR managers to line managers. Certainly with respect to obligations to enable access to facilities, and internal job vacancies, new and existing temporary workers are entitled to these benefits from the acts first inception in October 2011 (James, 2011). It is unclear if the organisations temporary recruitment desk acted to notify existing temporary workers directly, or if these facilities were already offered. The one person interviewed from the temporary recruitment desk did however indicate awareness that facilities needed to be offered as part of the induction process, and this is an indication that obligations are being met.

Two of the three HR managers stated that the organisational impact of changes under AWD legislation had been minimal. One went on to say that the organisation already gave temporary workers access to most facilities prior to legislative changes. Access to the medical centre was the only facility that needed to be additionally offered. Temporary workers were also already 'paid in excess' of what would be offered to permanent employees. These comments suggest a review of some kind was performed to ensure compliance under AWD legislative changes. Accordingly since the organisation complies with legislative



obligations (with respect to pay and working conditions) from day one of an assignment, the end of the 12 week qualifying period (where equal employment rights extend to temporary workers) has meant no impact for the organisation. The temporary recruitment desk provides an effective control function in this respect; ensuring that from day one wages are in line or exceed that of permanent workers, and that facilities are offered.

The failure of HR managers to communicate AWD changes with line managers may stem from the impact of changes having no day to day direct effect on the line managers interviewed.

### *Mechanisms and controls in the organisational approval hierarchy*

Participants were invited to discuss the stages of the approval process when deciding to engage in the use of temporary workers. The aim of this question was to identify what controls and mechanisms existed within the organisations approval hierarchy.

- All respondents stated that the process begins with the business line manager. This seems a logical first step given that line managers in the first instance have first-hand knowledge of current and future business requirements and dependencies.
- Approval then moved to obtaining sign off from senior executive management in the UK, either the head of operations, head of the division, or CEO.
- In two out of the three divisions approval required additional sign off further up the hierarchical structure from the Global Head of the respective division.
- Human Resources are engaged after approval is obtained from the above levels (in two out of the three divisions) – where approval is required from

London HR, Head Office HR, or in some circumstances the Global Head of the respective HR division.

- The organisations temporary recruitment desk is engaged to begin sourcing candidates only once approval has been obtained from the above levels.
- A minimum requirement of three persons providing sign off within the hierarchical structure is required in all three divisions.
- All divisions require senior executive management and HR sign off where temporary assignments are either rolled over or extended.

The multiple layers of approval would appear to provide on the surface a foundation of control ensuring senior executive management are at least aware temporary resources are being utilised or that they continue to be utilised. Additionally these multiple layers provide transparency in the process across supporting divisions.

#### *Inconsistency in line manager and HR manager statements*

After interviewing line managers and the respective HR managers from each of the three divisions, inconsistencies were found in statements with respect to the sign off process. It was found that:

- For the approval process responses from each of the line managers were in each case at variance with what the respective HR manager said.
- All HR managers stated that additional levels of approval were required above those as understood by line managers.
- There appeared to be differences in knowledge with respect to required levels of approval within each other's function. For example line managers in two of the three divisions interviewed seemed to be oblivious to the HR

approval hierarchy once approval had been obtained within the business line. This indicates that whilst there's an understanding that approval requires HR sign off, the stages of HR approval appear unknown by line management. On the surface this isn't necessarily an issue, but a lack of knowledge nonetheless.

- In contrast HR managers stated differing levels of approval required at line or senior executive management level before HR were invited into the approval process.
- In two of the three divisions however HR managers stated that higher levels of approval at line or senior executive management level were required prior to HR inclusion. This suggests sufficient control for HR to at least challenge line management in respect to the requirement for additional layers of approval if not already obtained.

Overall the inconsistency in statements between line management and HR indicates a lack of partnership and suggests that there might be an unsatisfactory control mechanism.

#### *Inconsistency between divisions*

There additionally appeared to be differences or inconsistencies across each of the three respective divisions interviewed, with 'different stages of approval required for differing roles and divisions'.

- Of the three divisions interviewed, two communicated the inclusion of Global HR partners in the approval sign off process based in the organisations head office location.
- One of the three divisions stated that HR were not involved in any capacity (London or globally) in the initial approval and sign off process for new temporary work hires. In this division HR only engaged to provide sign off

when existing temporary assignments required extension beyond the initial length of contract.

It is not known why HR are excluded from the initial decision to engage in the use of temporary workers, although this may stem from providing flexibility to the business line with respect to making short term business decisions. The exclusion of HR from the initial decision to engage seems to be an anomaly given the increased obligations for organisations under the AWD. Nonetheless roll over control mechanisms still exist to at least ensure HR inclusion at some point, albeit at the end of the initial contracting period. More research is however needed to determine the reasoning for this apparent anomaly.

There also appeared to be inconsistencies in the approval process with respect to length of temporary assignment, and the level of position the temporary worker enters the organisation.

- In only one of the three divisions interviewed if a temporary worker was required for less than a month, the Global Head of HR in that respective division would be required to provide sign off.
- In only one of the three divisions interviewed a higher level or seniority of temporary worker required sign off from the Global Head of that respective division.

Inconsistency between divisions suggests a control issue. Certainly excluding global HR partners from the process weakens the degree of control and also transparency in the process. Furthermore it illustrates a seemingly fragmented approach across divisions within the London region. It is unknown if there are further inconsistencies amongst other divisions within the organisation.

Additionally by omitting HR at any stage within the approval process limits the ability to challenge business reasoning or provide guidance with respect to legislative obligations – thus further weakening the approval process and providing less control.

There were again inconsistency in line manager and HR statements with respect to exceptions in the approval process. However it should be noted that key exceptions within that process may simply have been over looked in participant responses, rather than necessarily indicating approval knowledge deficiencies between HR and line managers.

#### *Approval based system inconsistencies*

In addition to approval or sign off inconsistencies across the organisation, there also appeared to be differences with respect to methods used to obtain sign off.

- In one of the three divisions interviewed sign off was simply obtained via email, whilst in contrast the other two divisions required approval using computer based systems.
- In some cases more than one system was used – one for headcount approval and another for budget approval.

This doesn't necessarily represent a control issue; however it supports the previously raised notion that inconsistencies across divisions illustrate a seemingly fragmented approach to approval within the London region. Certainly the use of computer based systems enhances the approval process with the ability to track project budgeting, and departmental costs per individual. In contrast email provides the flexibility to potentially speed up the approval process, whilst still maintaining control.

From participant responses the temporary recruitment desk has an excellent understanding of what approvals are required, and when these approvals are required across the three divisions interviewed. Additionally this can be extended to exceptions within the approval process previously discussed.

*Determining if there is a defined business strategy when engaging in the use of temporary workers*

Participants were asked if they were aware if the organisation had any policies stipulating what the proportion of temporary to permanent workers should be in a given department or level of position. This question aimed to determine if there was a defined temporary worker human resource business strategy when engaging in the use, and continued use of temporary workers.

- Four of the six respondents answered no.
- Two of the three line managers were however unsure if the organisation had a policy or not, which suggests that if there was a policy it is dictated further up the organisational hierarchy.
- The general consensus from respondents was a preference to employ permanent employees 'wherever possible', and to maintain the stability of the existing work force.
- The line manager and respective HR manager of one division stated that the Chief Operating Officer (COO) had communicated a policy to employ permanent employees whenever possible within the organisation.

These results suggest the organisation has no predefined human resource strategy when engaging in the use, and continued use of temporary workers other than for traditional short term purposes. However whilst the consensus amongst line managers was a desire to employ permanent employees 'where possible', headcount restrictions imposed at senior executive management level prevent complete transparency in this respect.

### *Reasons for using and continuing to use temporary workers*

Participants were asked to advise why they engaged in the use of temporary workers, in an effort to understand business reasoning for engaging in their use. Overwhelmingly the largest response given by respondents was to cover peaks and troughs in work demand or to manage volatility in the business cycle, and when restructuring and reassessing departmental duties. Other responses included:

- During periods of maternity cover
- During extended periods of sick leave
- To staff ad hoc projects
- Through difficulty in filling the role in the permanent market
- During permanent recruitment freeze periods.

One HR respondent stated the organisation used 'Industrial Trainees' to fill roles of an administrative nature for a 12 month period. These workers can also be defined as temporary or contingent workers since by definition they don't have a contract for long term employment (Polivka & Nardone, 1989), or employment is of limited duration (OECD, 2002; 170). In summary these reasons all convey a desire for increased internal flexibility, during periods of volatility and change – thus considered to be of a temporary nature.

### *Initial length of temporary assignment in the decision making process*

Participants were asked if the duration of a temporary assignment was considered in the decision making process. This aimed to determine if the position being recruited for was intended to be temporary or if decisions to employ temporary workers was linked to a defined human resource or business strategy.

- Of the three line managers and three HR managers interviewed, all stated that the proposed length of temporary assignment is considered in the decision making process.
- Additionally all advised that in most situations the initial length of temporary assignment would be for three or six months – dependent on the role being filled.
- For example if the position was to cover someone on maternity leave, a six month assignment would be offered in anticipation that the permanent employee could return to work at that time. In the event they did not, the temporary contract could be rolled over.
- Likewise if the role was to cover peaks in business activity and it was not known if that demand would continue, then a three month contract might only be offered.
- One line manager stated the willingness to be cost effective. This gives an indication that temporary resources are being used sparingly and as traditionally intended – with a fixed duration in mind.
- In contrast one line manager said that he was often bound by permanent headcount freezes and that whilst his preference would be to employ a permanent member of staff he was restricted in doing so.

Whilst the length of initial temporary assignment is considered by line managers they are often restricted by internal guidelines. Where there is a headcount freeze the length of employment can vary considerably, and on occasion extend beyond the initial three or six month contract. Whilst the initial contract is on the surface for a fixed duration, intent to 'continue to use' does not suggest a temporary working arrangement. In one division there would appear to be a strategy to utilise temporary workers outside official norms. It is however difficult to determine



if use of temporary staff is considered in strategic planning by senior executive management when implementing headcount freeze.

*Role transition from temporary to permanent based on duration*

Following on from the previous question participants were asked what the maximum period of time would be for an initial assignment before the position transitioned from being considered 'temporary' into a permanent position. This question was aimed at determining if the position being initially recruited for was in fact temporary by definition.

- Three of the six respondents stated that decisions were often role specific and dependent on conditions.
- Four of the six respondents also suggested that they were often bound by headcount restrictions, so roles that under normal circumstances might be considered permanent would not be approved.

At times where there were headcount restrictions senior executive management would instead approve a temporary resource. This suggests possible restructuring and cost reduction initiatives are being discussed and planned at senior executive management level, although it is difficult to quantify without further research being performed at this level. Certainly if there is business justification through sustained volumes that an additional resource is required – the approval of a temporary resource suggests other initiatives are being considered with respect to future staffing needs.

- In all situations respondents stated that the approval of temporary resources was for a limited duration – either three or six months.
- Of the three divisions interviewed two line managers and reciprocating HR managers statements were consistent in this respect – which conveys

assignments on most occasions were considered time bound and of fixed duration.

- These two divisions also stated that whilst statistics might indicate an increase in business activity, often temporary workers were engaged to determine if volumes would be sustained.

Responses suggest that there is no hard and fast rule as to when a position might transfer from being considered temporary into a permanent position. This is because it is not always known when a decision is made to engage in the use of temporary resources how long that temporary worker will be required. Thus these roles from an HR perspective should always be considered temporary. In contrast a line manager in one division stated that he'd take a temporary resource 'for as long as he could' due to headcount restrictions – suggesting that roles are not always intended to be temporary, and that assignments are routinely rolled over. The HR manager of this respective division confirmed this view – again suggesting fragmented policies within the organisation with respect to human resource strategies when determining to engage in the use of temporary workers. However HR still seemed to be aware – which suggests a partnership with the business line nonetheless.

These findings suggest that in two out of the three divisions interviewed that temporary resources are intended to be used more in a traditional short term manner, rather than for extended periods of time. The other division appears to support a longer term view when using temporary workers.

#### *Buffer policies used to distinguish the employer employee relationship*

Participants were asked if the organisation had any buffer policies used to distinguish the employer employee relationship. A buffer policy is defined as a period of employment after which time a temporary worker must leave the organisations employ, in an effort to clearly define the temporary employment

relationship. This question was aimed at identifying if a mechanism existed to prevent the on-going use of temporary workers.

- Of the six respondents four stated that the organisation did not have a buffer policy, whilst the other two were unsure.
- One line manager stated that he would not be able to employ a temporary worker beyond 51 weeks, and that HR advised him the worker would need to leave the organisation for a minimum of three months before being reemployed again as a temp.
- In contrast the respective HR manager was able to provide examples of temporary workers working beyond 51 weeks – thus statements appeared to contradict each other and this is certainly a sign HR and line management are not working in unison.

There appeared to be some knowledge around a 46 week rule amongst HR managers within two of the three divisions interviewed. One HR manager said that this was a flag from the temporary recruitment desk to indicate an individual was reaching 51 weeks of temporary employment – after which time increased employment protection extends to temporary workers. A temporary worker can potentially claim for unfair dismissal if it can be argued they were an employee of the organisation.

- This HR manager advised that in turn the relevant line manager would be notified, but ultimately it is a business decision if they wished to continue to employ the individual beyond 51 weeks. Discussions with the respective line manager appeared to confirm that HR had been notifying him, which in turn suggests the temporary recruitment desk is notifying HR at this 46 week window.

- All line managers interviewed had awareness that worker rights increased after an extended period of employment within the organisation – evidence HR had communicated this issue across the three divisions.

Based on these findings the organisation does not have a mechanism to prevent the on-going use of temporary workers beyond a fixed duration. That is not however to say the organisation fails to monitor or control it. A mechanism in notifying line managers when a temporary worker reaches 46 weeks of employment at the very least ensures HR is working collaboratively with line managers, with the aim of protecting organisational interests. Additionally this appears to be an effective mechanism in raising line manager awareness of increased employment protection, if electing to continue to employ beyond 51 weeks.

The evidence suggest that senior executive management within the approval hierarchy are unaware of the increased risk of employing temporary workers beyond 51 weeks since communication only takes place between HR and line managers. Accordingly lack of transparency signals a control issue – and therefore an unsatisfactory control mechanism.

*Length of previous assignment considerations when a temporary worker needs to be replaced*

Participants were asked if a position being recruited for had previously been a temporary role, if the length of that previous assignment was taken into consideration in the decision to employ another temporary employee. The aim of this question was to identify if a mechanism existed to prevent or control continued employment beyond the traditional temporary arrangement with respect to a single position. Again there were inconsistencies between divisions in response to this question.

- One line manager stated that questions would be asked further up the approval chain if the role being recruited for was on-going beyond 51 weeks. Whilst this is an indication of control, it is limited.
- The HR manager in this division stated that the previous length of assignment wouldn't be considered from an HR perspective, although she did confirm that it would be challenged further up the approval chain within the business line.
- Another line manager stated that in his view 'it wipes the slate clean'. The respective HR manager again confirmed length of previous assignment would not be considered from an HR perspective but would instead be left to the business line. This appears consistent with the other division, however again shows limited control.
- In contrast the HR manager in the remaining division stated that the length of previous employment would be considered from an HR perspective and that the line manager would be asked if they were aware of the on-going duration of the temporary position.
- The line manager within this division confirmed that HR do challenge with respect to the length of time individuals have been contracting in a given role, however it was unclear if the positional length of duration is challenged.

There does appear to be control in two of the three divisions with respect to challenging the previous length of assignment – albeit limited to within the business line. Nonetheless it ensures someone further up the chain of approval is aware on the on-going nature of the temporary arrangement. Whilst there is control in the third division this is limited to discussions between HR and line managers. Senior management appear excluded from these discussions, although it is assumed still aware of the on-going nature of the temporary position since they provide sign off. Inconsistencies therefore exist across the organisation with

respect to challenging the length of previous assignment, although there is a degree of control. This fragmented approach again prevents complete transparency, weakens control and potentially allows extended employment beyond the traditional temporary relationship.

### *Reassessing the decision to employ at the end of the initial assignment*

Participants were asked if at the end of the initial period of temporary employment, the decision to employ was assessed at that time, with the view to either disestablish or continue the temporary employment relationship. The aim of this question was to identify if a mechanism existed to evaluate business needs at the end of the initial assignment.

- Three line managers and two HR managers stated that it is a two stage process – reviewing temporary worker performance, and future business needs.
- Two of the three line managers stated that appraisal is on-going, rather than being performed at the end of the three or six month contract.
- All line managers advised that an assessment is carried out to determine if the position demands a permanent headcount (dependent on headcount approval) or if an extension in temporary contract is appropriate.
- All respondents advised that temporary worker performance is only ever informally assessed and that it is one sided.
- All respondents stated that senior executive management and HR approval is required to roll or extend temporary assignments across all three divisions.
- Two line managers advised that either HR or senior executive managers within the approval hierarchy challenge the business decision to roll existing temporary assignments if there is no business justification.

From the above it is clear that an evaluation is performed to ascertain future business requirements, and to determine temporary or permanent staffing needs. Additionally temporary worker performance is included as part of this evaluation, albeit on an informal level. Nonetheless it enables a line manager to subjectively determine temporary worker suitability to meet future business demands. There appears to be consistency between HR and line manager statements across the three divisions interviewed, suggesting this mechanism and control extends throughout the organisation, providing a robust platform from which evaluation and re-evaluation can be conducted.

#### *Mechanisms to retain knowledge and leverage human capital*

Following on from the previous question, participants were asked what working relationship the temporary worker would enter the organisation. For example, was the position disestablished, the person made permanent, or did the worker continue in a temporary capacity. The aim was to identify if policies existed to leverage human resources as a competitive advantage within the organisation by making suitable candidates permanent employees, rather than extend the temporary working relationship.

- All line managers interviewed said that decisions were on a case by case basis, and dependent on a number of factors, i.e. Statistical data to support that it was a permanent role, headcount approval etc.
- Additionally all line managers would look to move temporary workers into permanent positions if that worker was the right person for the role.
- One HR manager stated they would challenge the line manager when extending an assignment if there was sufficient justification the role had moved from 'temp to perm'.

- However one line manager said that he would look to roll a temporary position to the end of an intended contract (beyond 51 weeks) before converting a temporary worker to a permanent employee.
- All three line managers stated that temporary workers are welcome to apply for permanent positions, if a position is offered. The position must however be offered to other internal candidates.
- One HR manager asserted that a temporary worker could potentially be moved onto another project within the organisation at the end of a temporary assignment.
- Two line managers and one HR manager stated that not all temporary workers wanted to go permanent, so this could also be a barrier.

The consensus amongst line managers was that they would look to make temporary workers permanent if a temporary resource was the right person for a given role, although they were often bound by a number of internal and external restrictions, which dictate what course of action can and can't be taken. Furthermore line managers often needed more time than the initial contract to determine long term suitability of candidates. Whilst one line manager stated that 'inside three months you can tell the depth of someone', he asserted that more assessment time was needed. In contrast line managers often don't know if the role would develop into a permanent headcount, and thus go into temporary employment relationships 'knowing what it is'. This emphasises the importance of selecting the right candidate when an initial assignment is offered, whilst illustrating that all factors can't always be accommodated in this selection process.

Not all HR managers challenge line managers if the position transitions from temporary to permanent should there be sufficient business justification. This suggests that HR managers are not working in partnership with line managers in this regard – thus provide an unsatisfactory control mechanism. It would however appear that line managers and HR managers are considering how best to utilise



resources albeit it in the form of temporary help, with the view of 'retaining knowledge'. Utilising candidates on 'other projects' provides a clear example of this should an initial assignment be disestablished. Human capital would therefore on the surface appear to be leveraged in this regard despite the temporary nature of the relationship. It is not clear however if HR challenge the business line in this respect, or if decisions to utilise temporary workers in differing capacities is a business initiative.

### *Appraising the performance of long term temporary workers*

Participants were asked if the performance of temporary employees on assignments lasting longer than one year was ever formally assessed. The aim of this question was to identify if a formal mechanism existed for evaluating performance of temporary employees used within the organisation for extended periods of time.

- Two line managers stated that in their departments they did not have examples of temporary employees working in excess of twelve months.
- However all respondents advised that performance of temporary workers was never formally assessed.
- Two line managers stated that performance was assessed on a daily basis, or on an on-going basis throughout the duration of the temporary assignment.
- Two HR managers stated that if the organisation offers performance appraisals that it can imply the temporary worker is an employee of the firm and that a clear distinction must be made.
- One HR manager stated that performance appraisals are additionally not given due to time constraints placed on line managers.

- Two line managers confirmed that HR had given 'strict guidance' to exclude temporary workers from the performance appraisal process.
- One line manager was specific, stating that he was not able to offer mentoring, training, or coaching to temporary employees other than on the job training, in an effort communicated by HR to clearly define the temporary employment relationship.

Although 'informal', a performance appraisal in some form or another is performed, albeit of a subjective nature. Additionally extensive efforts appear to have been made by HR to limit, or prevent 'formal' appraisal mechanisms. Communication between HR and line managers in this respect is evident with two of the three line managers expressing extensive knowledge of what can and can't be offered. The words 'strict guidance' suggests HR have worked closely with line managers in this regard.

*Communication of feedback with the view of organisation growth and personal and professional development*

Participants were asked if positive or negative feedback was ever formally communicated with temporary employees in an effort to improve performance, and encourage personal and professional development. This question aimed to determine if lack of communication in this respect prevented performance from improving – thus weakening human capital within the organisation.

- All line managers stated that feedback given was informal, but that they would sit down with temporary workers and raise performance issues, give constructive criticism, but that the process was not systemically driven.
- All HR managers asserted that poor performance or minor things would be fed back to the temporary worker via the line manager, although this would not be a formal process.

- Two of the three HR managers stated that any serious performance issues, or if the temporary assignment needed to be terminated, that feedback should go through the temporary worker agency via the temporary recruitment desk.
- Of the three HR managers interviewed, two stated that this was because of legislative constraints and a requirement to clearly distinguish the employer employee relationship.

Whilst feedback given to temporary workers internally is informal, there does appear to be a mechanism (albeit it informal) to communicate 'constructive' positive or negative feedback – thereby providing workers with a mechanism to enhance performance or develop existing competencies. It is however not systematically driven – in short the process is ad hoc. Additionally where there might be serious performance issues, or in the event a temporary assignment requires termination, temporary work agencies provide a formal external medium in which to communicate. These formal and informal channels also support legislative requirements where the temporary employment relationship must be clearly defined.

There appears to be consistency between HR managers and line managers statements with respect to the informal nature of the feedback. This additionally appears consistent across the three divisions interviewed. It is however unclear if line managers are aware that serious performance issues should be communicated through the temporary work agency.

#### *Key Performance Indicators for on-going temporary employee assignments*

Participants were asked if KPI's were established for temporary workers where assignments were on-going in nature in excess of 51 weeks. The aim of this question was to determine if the organisation is getting the most out of these workers with respect to taking the department and organisation forward.

- All respondents stated that no key performance indicators or long term goal setting was discussed with temporary workers.
- However two line managers and two HR managers asserted that temporary workers would be advised of project objectives if the assignment was related to a specific project.
- Two line managers and two HR managers stated that temporary workers are expected to perform the role they were initially employed for.
- Two HR managers stated that temporary workers would not have the same level of performance objectives set as would be set for permanent employees.

Whilst objectives and day to day requirements do appear to have been communicated so temporary workers know what's expected of them, formal KPI setting is not evident in any role – albeit it project related work, or within the business line. In non-project related roles this challenges traditional HR practice and raises questions as to why the organisation might continue to engage in the use of temporary workers beyond the traditional arrangement. Failing to establish KPI's or set formal objectives above and beyond normal daily requirements, somewhat limits enhancing temporary worker productivity and organisational efficiency. Without the 'same level' of performance objectives temporary worker performance has the potential to be detrimentally impacted.

#### *Reassessing the employment relationship when a permanent employee resigns*

Participants were asked when a permanent employee resigns or is redeployed if the performance of a temporary worker is assessed with the view to making that worker permanent. The aim of this question was to identify if performance, knowledge, and skills of the temporary worker are assessed with the view of retaining those workers who are the right fit for the organisation, department, and role.

- All three line managers expressed that it is definitely a thought process to look at the temporary worker population and see if there is a suitable candidate.
- In contrast however five of the six HR and line managers interviewed stated that it is not an automatic right for temporary workers to be offered permanent roles. Business requirements and headcount approval must be assessed.
- All three HR managers advised that the role would still needed to be advertised internally in addition to temporary workers having e-access to the internal vacancy database.
- Two of the three line managers confirmed that they would need to advertise the position internally and go through normal selection procedures.
- Temporary workers are however a 'known quantity' so it is advantageous in terms of training, team fit etc. It is also cheaper for the organisation to employ with respect to wages and recruitment fees if the temporary worker has been employed for an extended period of time.
- Line managers and HR managers also spoke of the desire to retain knowledge, the cost benefit of employing permanent workers over temporary resources, and the desire to grow the business through permanent employees.
- In all three divisions there were examples provided where temporary workers had turned down permanent opportunities within the organisation.

Whilst it is a consideration to look to employ temporary workers permanently, clearly there are other factors that are considered. Future staffing requirements

and planning appear to be at the forefront of managerial thinking, which can prevent such opportunities. Nonetheless such situations appear in the very least to provide a mechanism for line and HR managers to assess the temporary worker population with the view of transition from temporary to permanent employment. There appears consistency between HR and line manager statements, and across divisions, with respect to selection procedure and the need to advertising internally before including temporary workers 'in the mix' – thus a signal HR has worked closely with line managers in this respect and suggesting internal mobility and career opportunities for internal candidates are being considered.

Overall there was a general consensus amongst respondents of the cost benefits achieved in retaining knowledge, organisational growth, and the cost benefits that stem from internal capital investment in resourcing, or through the importation and retention of knowledge.

#### *Entertaining on-going employment for temporary workers*

In the final set of questions participants were asked if a temporary worker had applied for, but was not offered a permanent position, if that worker would continue to occupy and retain the same temporary position within the organisation in an on-going capacity. This question was also extended to situations where a temporary worker was offered a permanent position, but declined the offer of permanent employment. The aim of the questions was to identify if the organisation had controls to prevent temporary workers without desired skills, or long term career driven commitment to the organisation, from occupying on-going temporary positions.

- All respondents stated that continued employment is dependent on the role and differing circumstances. If the worker didn't have the desired skill set, continued employment would be unlikely, however that is not to say they don't have suitable skills to maintain the temporary position.

- All respondents said that the temporary worker would continue in the same temporary position, either to the end of the intended contract, or for as long as the resource was needed.
- One line manager stated that he would look to disestablish the temporary employment relationship at the end of an existing assignment, although before doing so that he would seek guidance from HR in this respect.
- One HR manager said that only in rare situations would a temporary worker continue indefinitely in the same position. A niche role where the organisation is having difficulty in filling the position was an example.
- Four of the six respondents stated that not all temporary workers wanted to be permanent, or had examples of temporary workers turning down permanent employment but continuing in a temporary capacity.
- One line manager stated that he wasn't aware of any rules where these persons would need to be replaced within the organisation.

Clearly different situations present different outcomes, however responses suggest 'how best to use' a temporary resource is being considered rather than simply overlooked. The situation in the very least provides a mechanism enabling a re-examination of staffing requirements – certainly with respect to the continued use of temporary resources. However, there appears to be inconsistency across the three divisions interviewed. Whilst in one division the view is to replace (or utilise until replaced), in the other two divisions temporary workers appear able to continue indefinitely in a temporary capacity. The organisation has no policy to control or prevent such an event.

There is no indication HR managers challenge line managers with respect to the on-going use of a temporary worker who has previously turned down permanent employment. A line managers comments that he'd 'seek guidance from HR' in this respect also suggests this is not actively challenged at senior executive

management level. Furthermore, whilst it is ultimately a business decision to continue the employment relationship, it is questionable if the implications have been entirely considered.



## **Discussion and conclusions**

### *Mechanisms and controls to ensure legislative obligations are being met*

The findings show that line managers rely on HR to provide guidance on employment legislation and on any legal changes. The evidence is that HR managers are knowledgeable and diligent in this regard – thereby providing an effective control function, ensuring legislative understanding, and making sure obligations are being met. The temporary recruitment desk acts as an effective control in this respect. It would be fair to say that HR managers are true partners with line managers in this regard.

### *Mechanisms and controls within the organisational approval hierarchy*

The approval hierarchy provides a 'foundation' of control across multiple levels within the organisational structure. This includes at the initial stage when deciding to engage in the use of temporary resources (in two out of the three divisions), and when extending existing assignments (in all divisions). However variance in line manager and HR manager statements suggests control is weakened by lack of sign off approval understanding at line manager level. Inconsistency in statements with respect to the levels of required approval across all three divisions also suggests an unsatisfactory control, with transparency reduced, and inability to challenge business justification at both senior executive manager and HR manager levels.

The reasons for excluding HR when engaging in the initial sign off of temporary workers (in one division) is unclear, however this suggests weak control within the approval hierarchy. Given the increased obligations placed on organisations under AWD the need for control is important. The degree of control can be enhanced by bringing uniformity and consistency across divisions. Uniformity would also provide significantly improved transparency across the organisation which increases the degree of control.

Unfortunately there were no procedure or policy manuals to sight with respect to the approval process – making it a challenge to obtain a true and accurate assessment of normal practice, and exceptions within the process (when comparing HR and line manager statements). Consequently it is difficult to assess if normal practice and exceptions within the process are routinely followed without a comprehensive audit. It is highly possible that other exceptions within the approval process exist which weren't conveyed by respondents. It is considered that lack of written procedures and / or policy manuals for the employment of temporary staff is an issue that needs to be addressed.

Different computer based approval systems used across the three divisions is also evidence of inconsistency – again suggesting lack of control. Control could be further enhanced by bringing consistency across the divisions – with systems to track project budgeting and departmental costs per individual.

#### *Reasons for engaging in the use of temporary workers*

There are many reasons why the organisation engages in the use and continued use of temporary workers which are similar in nature to those found in a number of previous studies. These include where temporary workers are used to replace permanent staff on sick leave, or maternity leave (Abraham 1990, Autor 2003; Houseman et al. 2003, Heinrich et al. 2009), where there are changes in demand and volatility in the business cycle (Atkinson et al., 1996; Cully et al., 1999; McGregor & Sproull, 1992; Allan, 2002; Henricks, 1997), and where it is difficult to fill the role in the permanent market – and where temporary staff are used to import valuable knowledge into the organisation (Matsuik & Hill, 1998). These reasons all suggest a short term temporary relationship.

The organisations use of Industrial Trainees (certainly in at least one division) to fill roles of an administrative nature, provides a mechanism which in essence allows permanent employees to be redirected towards developing core

capabilities, or facilitating more value added tasks. This is in line with literature (Connelly & Gallagher, 2004; Davis-Blake & Uzzi, 1993; Quinn, 1992; Ang & Slaughter, 2001; Pearce, 1993). Their use is however offset by permanent employee cognitive responses. Increasing permanent employee responsibility without necessarily increasing reward potentially damages the employer employee relationship as Pearce (1993) previously discovered, and must be considered in the decision to employ and to continue to employ these workers.

However in contrast the use of temporary workers when used in a traditional short term manner increases departmental flexibility whilst allowing the organisation to reduce costs – or at least provides an opportunity to be more cost effective. Although it does not appear to be a consideration from the outset, the use of temporary workers additionally provides a mechanism from which the organisation can, and has, auditioned temporary workers for permanent roles – which is supported by numerous previous studies (Carey & Hazelbaker, 1986; Autor, Levy, & Murnane, 2000; Houseman, 2000; Aronsson *et al.* 2002; Connelly & Gallagher, 2004). The organisation therefore considers temporary workers as a valuable resource, and not 'second hand' as has been the historic opinion.

#### *Conscious and unconscious changes to human resource policy*

The findings predominantly suggest there is no predefined business strategy when engaging in the use of temporary workers other than to assist with traditional short term assignments of fixed duration. However since the organisation engages in their use, there is a strategy of some kind, albeit with consideration given to the previously raised reasons – namely to increase flexibility and reduce cost. Whilst the organisation is faced with 'make or buy' decisions (Miles & Snow, 1984; p.46), the strategy appears to be 'make rather than buy' where possible.

In contrast examples of temporary workers being employed beyond what might be considered 'traditional norms' suggests that their continued use unwittingly has become a permanent personnel strategy. This is in line with previous research (Carnoy *et al.*, 1997; Nollen, 1996; Von Hippel *et al.*, 1997). Human resource

policy within the organisation has therefore changed, certainly as a conscious choice in one division, and possibly unconsciously in others. Whilst their extended use in some divisions might be considered exceptions, it challenges business strategy 'to employ permanent workers wherever possible'. This suggests that mechanisms and controls are not effective in supporting this statement.

*Control with respect to initial length of assignment in the decision making process*

There appears to be control to ensure the position being recruited for is of temporary duration, although often line managers are constrained by headcount restrictions. These situations aside, discussions between HR and line managers (in two of the three divisions) provide an opportunity for HR managers to challenge if the position is in fact temporary or of a permanent nature. Examples where temporary workers are used to cover 'peaks' in demand suggests that a gap analysis is performed as Anderson (2004) recommends, and where future requirements from a human resource perspective are being considered at line manager level.

In these two divisions planning appears to be focused at business unit level rather than managed higher up the approval hierarchy. Thus it can be argued it is more efficient and not an ad hoc response – again supported by previous literature (Ripley, 1995; Simon, 2003). In contrast although there might be significant strategic analysis to support a permanent headcount in the third division, pressure to change higher up the approval hierarchy may lead to decisions to impose headcount restrictions and thus a possible ad hoc response to employ temporary workers. This is consistent with previous research (Cooper, 1995; Gannon, & Nollen, 1997). It is however difficult to ascertain if change initiatives are being considered (linked with employment decisions) at this level without interviewing senior executive management.

It is recommended that provided there is no strategic business strategy at senior executive management level that opposes an increase in permanent headcount that decisions to employ permanent workers be delegated to the

business unit rather than dictated further up the approval hierarchy. Senior executive management remain in the approval process – thus transparency is retained and the ability to challenge business justification at senior executive management level.

In any event the initial fixed duration of any temporary contract (three or six months) at least provides a mechanism to limit temporary employment beyond the initial period, provided there is sufficient control to support it beyond that point.

#### *Role transition from temporary to permanent based on duration*

Deciding to engage in the use of temporary workers is clearly dictated by differing circumstances and imposed headcount restrictions. In most circumstances the organisation enters into a temporary employment relationship either knowing the role will be for limited duration, or unsure if demand will be sustained. It is therefore impossible to state when a position might transfer from being considered temporary to permanent as analysis is extrapolated through time. This may also suggest why headcount restrictions are initially imposed at senior executive management level.

Comments; however from the line manager of one division that he would look to take a temporary resource for 'as long as he could' suggests there is already sufficient justification for permanent headcount. Analysis therefore already appears to have been extrapolated through time – which questions the decision to engage in the use, and continued use of temporary workers. Other strategic goals may however be being considered by senior executive management. Again it is difficult to accurately assess if this truly is the case without interviewing senior executive managers.

### *Buffer policies to prevent extended use and clearly define the employment relationship*

A buffer policy is defined as a period of employment after which time a temporary worker must leave the organisations employ, in an effort to clearly define the temporary employment relationship (Smith, 2000). It was found the organisation doesn't have a policy in this respect. However, the temporary recruitment desk does provide a suitable control mechanism in notifying HR managers when a temporary worker reaches 46 weeks of service. Temporary workers gain increased employment protection (exceeding AWD obligations) after one year under standard UK employment legislation, so this provides sufficient time to roll over or disestablish the employment relationship.

Whilst there is evidence that HR managers educate line managers of the potential legal implications of temps working beyond one year, senior management are excluded from these discussions. Subsequently this provides an unsatisfactory control since increased employment rights have the potential to alter business decisions when extending beyond this point. Currently senior management don't have transparency in this regard, thus control is diminished and inadequate.

I however stop short of recommending a buffer policy (limiting temporary employment) being implemented as this would severely restrict resourcing on projects extending beyond this time interval and on others where assignments overrun. It should additionally be noted that the organisation competes for workers in a lucrative temporary employment market where individuals who shape this market often seek open ended contracts with no end date (CIETT, 2002). Imposing such a restriction could in turn limit the quality of candidates in the selection process if other financial institutions don't have such policies.

### *Length of previous assignment considerations when a temporary worker needs to be replaced*

Although the length of previous assignment is challenged within the approval hierarchy (should a temporary worker need to be replaced), it is challenged by

either senior executive management (in two of the three divisions) or by HR (in the other division). Whilst this offers some degree of control it does not offer complete transparency throughout the approval hierarchy. HR's failure to challenge suggests HR managers are not true partners with line managers in this regard. Control is thus weakened and unsatisfactory. Failing to establish adequate controls in this respect has the potential to facilitate temporary employment relationships that extend beyond traditional norms – albeit it disguised through the use of more than one temporary worker where each may fall within acceptable temporary parameters.

Whilst employing temporary workers beyond traditional norms seems common practise in one division, it opposes business strategy in the other two where temporary workers are used more on a short term basis. Thus lack of control again does not support business strategy to employ permanent staff where possible. Accordingly this control could be significantly enhanced – increasing transparency and preventing temporary help usage from becoming institutionalised into line manager employment practices as previous research has found (Ward et al., 2001). It is recommended both HR and senior management challenge the length of previous assignment should a temporary worker need to be replaced beyond three months to prevent temporary employment relationships extending beyond desired norms.

#### *Controls and mechanisms surrounding extending and rolling over initial contracts*

The end of a temporary assignment provides a formal mechanism in which to review temporary worker performance and evaluate future business needs. It could be argued that the end of a temporary assignment provides a mechanism or foundation for extensive evaluation to be performed since it assesses more than one dimension of organisational planning – assessing future business needs, and staffing requirements. The organisations policy in limiting the duration of temporary assignments to either three or six months additionally ensures a regular re-evaluation mechanism with respect to the above.

The evidence is that there are controls to ensure business justification when extending a temporary assignment at HR and senior executive management levels within the approval hierarchy. In this respect HR managers are true partners with line managers.

*Mechanisms to retain knowledge and leverage human capital*

Whilst the employment status of the temporary relationship is considered at the end of the initial contracted period, the view is on how best to utilise the resource rather than necessarily the immediate conversion of a worker from 'temp to perm'. Accordingly the focus appears to be on retaining knowledge and combining internal and external knowledge bases in an effort to maintain flexibility and allow additional analysis to be obtained. Internal headcount restrictions additionally play an important part in shaping this internal and external mix.

One line manager however commented that he would look to roll an assignment 'till the end of the intended contract' (often extending beyond 51 weeks) before converting a 'temp to perm'. This suggests an issue with respect to planning at senior executive management level and that headcount restrictions may potentially be an ad hoc response to change, rather than necessarily being driven by a strategic initiative to reduce (or maintain) internal headcount. Additionally the evidence suggests that HR managers (in two of the three divisions) are failing to challenge line managers if a role transitions into more of a permanent nature – leading to temporary assignments extending beyond desired norms. This failure subsequently provides an unsatisfactory control should the business initiative be to internalise knowledge and 'employ permanent employees where possible'. It is considered that lack of control in this respect needs to be addressed.

On occasion where a permanent position is able to be offered, organisational policy to advertise internally suggests a preference to develop the core skills and capabilities of its internal workforce, and in allowing temporary workers to apply, the view of retaining 'bought' knowledge should an internal candidate not be suitable. Organisational policy thus provides a foundation to support this strategy.



### *Appraising the performance of long term temporary workers*

Whilst legal obligations must be considered when defining the temporary employment relationship, extending assignments beyond a traditional temporary arrangement emphasises the need for performance appraisal mechanisms designed to enhance competence and performance. The evidence is that an appraisal mechanism exists across the three divisions interviewed through an 'informal' appraisal mechanism. Thus performance evaluation and monitoring of some kind is performed as Koh, Yer (2000) and Smith (1988) previously recommend. In contrast however this requirement appears the responsibility of line managers rather than HR managers or temporary supply agencies.

HR managers are therefore not diligent in this regard, and thus not true partners with line managers in monitoring temporary worker performance. Subsequently whilst an informal appraisal mechanism exists, a lack of control prevents it being a satisfactory mechanism ensuring performance is routinely monitored in view of enhancing temporary worker performance and competence if extending the temporary employment relationship. To ensure the temporary employment relationship remains clearly defined (in view of protecting legislative obligations) this appraisal mechanism must always be of an informal nature (as it currently is), but it is essential HR managers instigate this process to provide a degree of control – as Feldman et al. (1995) and Foote and Folta (2002) recommend.

It is therefore recommended HR managers engage with line managers when an assignment requires extending, in an effort to ascertain what steps have been taken by line managers to evaluate temporary worker performance. Whilst this will undoubtedly place additional strain on both line managers and HR managers, Gunderson (2001) states that marginal costs associated with employing temporary workers will effectively offset the fixed costs of administering this supervision (p.448).

### *Communication of feedback with the view of organisational growth and personal and professional development*

The informal nature of performance feedback between line managers and temporary workers ensures the employer employee working relationship is clearly defined – thus preventing potential legal ramifications. HR managers appear to have worked closely with line managers in this respect. However whilst a feedback mechanism exists, it is a loose one and not 'systematically driven'. Line managers engage with temporary workers if there are performance issues. Whilst this enables these workers to improve performance, knowledge workers (which include temporary workers) must be managed for greater productivity. The necessity for improved productivity increases as the duration of an assignment is extended.

Since this feedback mechanism is loose, it is presumably infrequent – preventing regular opportunities to listen, challenge, and encourage as Drucker (2002) suggests. Subsequently opportunities to develop or enhance temporary worker core competencies are reduced. Thus it could be argued temporary workers are not being managed effectively for greater productivity due to an unsatisfactory feedback mechanism. That is not to say that an improved feedback mechanism need be of a formal nature, but the irregularity of it limits the mechanisms effect. Accordingly it is suggested to improve this feedback mechanism that informal discussions between line managers and temporary workers be routinely scheduled to coincide with the rollover of an existing assignment. Retaining the informal nature of discussions (presumably over coffee) additionally assists in meeting legislative obligations to clearly define the employment relationship.

### *Controls and mechanisms to enhance temporary worker performance commitment and efficiency through Key Performance Indicators*

The evidence shows that no KPI's are formally set for long term temporary workers. Whilst it is acknowledged the use of temporary workers often exceeds 51 weeks in duration, electing to continue the employment relationship beyond this point sets differing precedents for temporary workers and their permanent

counterparts. Participant responses stating that 'temporary workers are employed to perform the role they are initially employed' suggests the temporary nature of the role – but opposes the actual length of assignment. Failing to set clear performance objectives over time, lessens the development of temporary worker competence and performance (Fletcher, 2001), thus questioning the organisations capital investment in continuing the employment relationship.

Clear performance indicators should therefore be set as Smith (1988) suggests. However temporary workers must remain outside the formal internal performance review process to ensure the employment relationship is clearly defined so as to comply with legislative obligations. In this respect KPI's or additional objectives should be informally set and discussed with long servicing temporary workers above and beyond normal daily requirements where the role is non-project related. Additionally temporary workers should be given access to internal training material where there is no external costs imposed on the organisation. Temporary workers should however continue to be excluded from being offered financial support for external training and development opportunities.

*Controls and mechanisms to reassess the employment relationship when a permanent employee resigns*

A permanent employee resignation provides an opportunity in which to evaluate future staffing needs. Whilst it is an opportunity to assess the temporary worker population in view of transferring an existing worker from 'temp to perm', it is only a consideration and dependent on many other factors. Comments from line managers indicate that analysis is being conducted to determine if there is a continued demand for a job or skill, in light of making effective use of existing resources. A gap analysis is additionally conducted as Anderson (2004) suggests, in view of having the right people in the right place at the right time with the right skills (Anderson, 2004; Pynes, 2004). This analysis is performed within the business unit, however often headcount restrictions imposed further

up the organisational hierarchy dictate the outcome. Whilst this suggests that a higher level of planning is being performed at senior executive management level, it has been argued to be less efficient (Ripley, 1995; Simon, 2003).

#### *Controls and mechanisms to prevent the on-going use of temporary workers*

Whilst continuing to employ temporary workers offers on-going flexibility, it is offset against increased cost and other detrimental impacts affecting the internal worker population, which are prolonged and exacerbated. Research has shown their use can affect internal mobility (Davis-Blake *et al.* 2003), leading to increased staff turnover through lack of opportunity for internal progression (Ward *et al.*, 2001). Further impacts include a decrease in permanent employee loyalty and commitment (De Jong & Schalk, 2005), resulting in lower levels of productivity and performance (Ang & Slaughter, 2001). Job insecurity may also be increased amongst permanent workers (Davis Blake *et al.* 2003). Thus marginal costs are subsequently increased to the detriment of the department and organisation.

Although all respondents from this research appear 'aware' that employing a temporary worker costs more, it is unlikely all (line managers in particular) have knowledge of these other detrimental impacts. Knowledge of these impacts may force business decisions to be reconsidered. HR managers therefore have an obligation to ensure line managers (and senior executive managers within the approval hierarchy) are aware of such issues, or to challenge the reasons why a temporary employment relationship might be continued. As previous research has shown, the continued reliance on temporary workers may mitigate the development of core skills and capabilities critical for long term organisational performance (Bettis *et al.*, 1992; Lei & Hitt, 1995). Whilst this might not necessarily be considered at line management level, it certainly should be considered by HR and senior executive managers should the business strategy continue to be 'make rather than buy'.

The issue illustrates the conundrum that line managers face – whether to retain knowledge, or replace and retrain. Furthermore it emphasises the necessity for HR

managers to be true partners with line managers so the right business decisions are made. The detrimental impacts imposed on the organisation appear to far outweigh any benefits in retaining knowledge since it is likely to only be for an extended temporary nature. Furthermore it contradicts HR policy and business strategy where the preference is to 'make rather than buy' employee skillset. Doing so limits the development of permanent employee skills whilst preventing internal mobility (Ward, et al., 2001), amongst other detrimental impacts. Additionally it suggests the organisations use of temps is potentially becoming institutionalised within employment policy, unconsciously or not. This is in line with literature (Ward et al., 2001).

In this respect HR managers should notify line managers and senior managers of the negative impacts associated with employing temporary workers beyond 51 weeks. Temporary workers who decline permanent employment should be utilised until a suitable permanent replacement can be found, and the employment relationship disestablished at that time. Since temporary resources are likely to have extensive internal systems and process knowledge it is recommended that the temporary recruitment desk identify if the resource can be utilised on alternative temporary assignments with the view of retaining knowledge through the organisations capital investment – provided the temporary position can't be staffed by internal candidates.

## **Reflections and limitations of research**

This dissertation has highlighted that in a representative major financial institution employing approximately 6500 employees, controls and mechanisms governing the decision to employ, and to continue to employ temporary workers are generally weak. As a direct consequence mechanisms and controls are ineffective in supporting company policy to employ permanent workers where possible, or in enhancing temporary worker performance when extending temporary employment relationships beyond 51 weeks. Whilst some mechanisms and controls do exist, their effectiveness is limited.

From the authors own personal experience having worked as a 'temp' within several leading London based financial service organisations over a number of years, that the lack of consistency in adherence to company policy for the employment of temporary staff is no worse than other financial institutions in London. In short the findings of this research of lack of consistent control appear to be consistent across the industry. Although the research is of a single case study, the findings are significant for the UK financial sector as a whole since it employs 29 percent of all temporary workers within the UK (Storrie, 2002). Today's current economic climate (characterised by increasing pressures to reduce costs and improve operational efficiencies) strengthens the relevance of this study since headcount freezes are likely to promote an increasing need for temporary workers as Conley (2002) has suggested. Subsequently the effects of utilising temporary workers are likely to be exacerbated. Control with respect to minimising the negative aspects of employing temporary workers, and in ensuring productivity and efficiency are thus vitally important.

This study has also found that a change in legislation with the introduction of AWD regulations has surprisingly meant limited impact on this organisation and by inference for the industry as a whole. Although further research is needed – the combined effects of the increase in demand for temporary workers, and a continued desire by individuals who shape this market to seek lucrative open ended contracts (CIETT, 2002), suggests the highly skilled temporary

employment market is unlikely to be as adversely impacted as first thought by commentators within popular media and business journals. It should be noted however that there are two very distinct temporary labour markets – highly skilled and low skilled. Control in either market nonetheless is still vitally important to ensure that obligations under the law are being met – again reflecting the significance of this study.

A further interesting theme to emerge from this study was a desire by line managers to extend temporary assignments beyond 51 weeks despite HR managers communicating that increased employment protection (in addition to AWD) extend to temporary workers beyond this point. Reasons for continuing the relationship reflect a desire by line managers to retain knowledge rather than replace and retrain – suggesting line managers are more concerned with business related issues than requirements to mitigate legal risk and potential ramifications. This raises many questions – in particular identifying what the increases in employment protection are (above and beyond AWD), and the reasons why HR allows relationships to be extended if there is an awareness that staff protection (rights and benefits) increase.

On the surface it would appear that any increase in protection is deemed 'low risk' and one the organisation is happy to bear. An assessment appears to have been performed in this regard. However in retrospect – given line management's heavy reliance on HR to provide guidance with respect to legislative matters, it seems strange the decision to extend temporary employment beyond 51 weeks remains 'ultimately a business decision' rather than an HR one. Business decisions with legal implications have therefore transferred to line managers. Whilst it is an HR responsibility to provide guidance with respect to legal matters, if a line manager chooses to ignore HR in this regard, it poses questions as to if there are other occasions where this occurs.

Although this study has discovered the above points of interest, it is not without limitation. Decisions to engage in the use, and continued use of temporary

workers involves senior executive management within the organisational hierarchy – none of whom were included in this study. Accordingly the study is unable to ascertain with certainty if there is a business strategy at this level with respect to the use of temporary workers. Whilst it is highly possible restructuring and cost reduction initiatives are being considered, it is without evidence. Furthermore it is difficult to ascertain if senior executive management have complete transparency in the approval process – research is limited to the views expressed by HR managers and senior line managers.

Additionally it is not possible to determine with confidence if business decisions might change if senior executive management had knowledge of the detrimental impacts, (or increased employment protection after 51 weeks), when electing to approve the continuation of temporary employment relationships. Although the study identifies that decisions to continue to employ temporary workers often extend beyond traditional norms (consciously or unconsciously), it has not been possible to determine business reasoning for this apparent disregard in HR policy at senior executive management level. In this regard this study fails to identify the reasons why senior executive management might elect to continue extending temporary employment relationships if permanent headcount is available, or where individuals have previously turned down permanent employment opportunities.



## References

- Abraham, K. (1990). Restructuring the employment relationship: The growth of market mediated work arrangements. In K. Abraham & R. McKersie (Eds.), *New developments in the labour market: Toward a new institutional Paradigm* (pp. 85-119). Cambridge, MA: MIT Press.
- Aronsson, G., Gustafsson, K., & Dallner, M. (2002). Work environment and health in different types of temporary jobs. *European Journal of Work and Organizational Psychology, 11*(2), 151–175.
- Aronsson, G., & Göransson, S. (1999). Permanent employment but not in a preferred occupation: Psychological and medical aspects, research implications. *Journal of Occupational Health Psychology, 4*(2), 152–163.
- Allen, J., & Henry, N. (1997). Ulrich Beck's risk society at work: Labour and employment in the contract services industries. *Transactions of the Institute of British Geographers NS, 22*(1), 180-196.
- Allan, P. (2002). The contingent workforce: Challenges and new directions. *American Business Review, June*, 103-110.
- Anderson, M. (2004). The metrics of workforce planning. *Public Personnel Management, 33*(4), 363-378.
- Ang, S., & Slaughter, S. (2001). Work outcomes and job design for contract versus permanent information systems professionals on software development teams. *MIS Quarterly, 25*(3), 321–350.
- Atkinson, J. (1984). Manpower strategies for flexible organisations. *Personnel Management, 16*(8), 28-31.
- Atkinson, J., Rick, J., Morris, S., & Williams, M. (1996). Temporary Employment and the Labour Market. Report No. 311. The Institute for Employment Studies: Brighton.
- Autor, D. (2003). Outstanding at Will: Unjust dismissal doctrine and the growth of temporary help employment. *Journal of Labour Economics, 21*(1), 1-42.
- Autor, D. (2001). Why do temporary help firms provide free general skills training? *Quarterly Journal of Economics, 116*(4), 1409-1448.
- Autor, D. (2000). *Why do temporary help firms provide free general skills training?* Boston, MA: MIT.
- Autor, D., Levy, F., & Murnane, R. (2000). *Skills training in the temporary help sector: Employer motivations and worker impacts.* Boston, MA: MIT

- Barnett, W., & Miner, A. (1992). Standing on the shoulders of others: Career independence in job mobility. *Administration Science Quarterly*, 37(2), 262-281.
- Beard, K., & Edwards, J. (1995). Employees at risk: Contingent work and the psychological experience of contingent workers. In C. Cooper & D. Rousseau (Eds.), *Trends in organizational behavior, Vol. 2* (pp. 109-126). Chichester, England: John Wiley & Son.
- Becker, G. (1964). *Human capital*. New York, NY: Columbia University Press.
- Bernesak, A., & Kinnear, D. (1999). Workers' willingness to accept contingent employment. *Journal of Economic Issues*, 33, 461-469.
- Bettis, R., Bradley, S., & Hamel, G. (1992). Outsourcing and industrial decline. *Academy of Management Executive*, 6(1), 7-22.
- Biggs, D., Burcell, B., & Millmore, M. (2006). The changing world of the temporary worker: The potential HR impact of legislation. *Personnel Review*, 35(2), 191-206.
- Boswell, W., & Boudreau, J. (2002). Separating the developmental and evaluative performance appraisal uses. *Journal of Business & Psychology*, 16(3), 391-412.
- Brewster, C., Mayne, L., & Tregaskis, O. (1997). Flexible working in Europe. *Journal of World Business*, 32(2), 133-151.
- Broschak, J., & Davis-Blake, A. (2006). Mixing standard work and nonstandard deals: The consequences of heterogeneity in employment arrangements. *Academy of Management Journal*, 49, 371-393.
- Broshack, D., & Davis-Blake, A. (1999). Is temporary employment an effective selection tool? The relationship between temporary employment and job performance. Paper presented at the 1999 Academy of Management Annual Meeting, Chicago, IL.
- Bryman, A., & Bell, E. (2007). *Business research methods*. New York, NY: Oxford University Press.
- Boyce, A., Ryan, A., Imus, L., & Morgeson, F. (2007). Temporary Worker, Permanent Loser? A model of the stigmatization of temporary workers. *Journal of Management*, 33(1), 5-29.
- Burgess, J., & Connell, J. (2006). Temporary work and human resource management: Issues, challenges and responses. *Personnel Review*, 35(2), 129-140.
- Burgess, J., & Connell, J. (2002). Temporary Agency Work: Conceptual, measurement and regulatory issues. *Australian Bulletin of Labour*, forthcoming.

- Byoung-Hoo, L., & Frenkel, S. (2004). Divided workers: Social relations between contract and regular workers in a Korean auto company. *Work, Employment and Society, 18*, 507–530.
- Campbell, I. (2005). *Trade Unions and Temporary Employment: New Initiatives in Regulation and Representation*. Centre for Applied Social Research.
- Campbell, I. (2004). Casual work and casualisation: How does Australia compare? *Labour and Industry*, December.
- Campbell, I. (1998). The nature and dimensions of precarious employment in Australia. *Labour and Industry*, January.
- Campbell, I., & Burgess, J. (2001). Casual employment in Australia and temporary employment in Europe: Developing a cross-national comparison. *Work, Employment and Society, 15*, 171–184.
- Cappelli, P., Bassi, L., Katz, H., Knoke, D., Osterman, P., & Useem, M. (1997). *Change at work*. New York, NY: Oxford University Press.
- Carey, M., & Hazelbaker, K. (1986). Employment growth in the temporary help industry. *Monthly Labour Review, 109*(4), 37-44.
- Carnoy, M., Castells, M., & Brenner, C. (1997). Labour markets and employment practices in the age of flexibility: A case study of Silicon Valley. *International Labour Review, 136*(1), 27-48.
- Casey, C., & Alach, P. (2004). Just a temp? Women, temporary employment and lifestyle. *Work, Employment and Society, 18*, 459–480.
- Cavana, R., Delahaye, B., & Sekaran, U. (2001). *Applied business research: Qualitative and quantitative methods*. Sydney, Australia: John Wiley & Son.
- Chambel, M., & Castanheira, F. (2006). Different temporary work status, different behaviors in organization. *Journal of Business and Psychology, 20*, 351–367.
- Chum, G. (2000). Global staffing review: Temporary growth? *Warburg Dillon Read Global Equity Research*.
- CIETT. (2002). Rationale of Agency Work. European Labour Suppliers and Demanders: Motives to Engage in Agency Work. Rotterdam.
- Cohany, S. (1998). Workers in alternative employment arrangements: A second look. *Monthly Labour Review, 121*(11), 3-21.
- Conley, H. (2002). A state of insecurity: Temporary work in the public services. *Work, Employment and Society, 16*(4), 725-737.

- Connell, J., & Burgess, J. (2002). In search of flexibility: Implications for temporary agency workers and human resource management. *Australian Bulletin of Labour*, 28(4), 272-283.
- Connelly, C., & Gallagher, D. (2004). Emerging trends in contingent work research. *Journal of Management*, 30, 959–983.
- Cooper, S. (1995). The expanding use of the contingent workforce in the American economy: New opportunities and dangers for employers. *Employment Relations Law Journal*, 20(3), 525-539.
- Cordova, E. (1986). From full time employment to atypical employment: A major shift in the evolution of labour relations? *International Labour Review*, 125(6), 641-657.
- Coyle-Shapiro, J., & Kessler, I. (2002). Contingent and non-contingent working in local government: Contrasting psychological contracts. *Public Administration*, 80(1), 77–101.
- Cully, M., Woodland, S., O'Reilly, A., & Dix, G. (1999). *Britain at Work: As depicted by the 1998 Workplace Employee Relations Survey*, Routledge, London.
- Davis-Blake, A., Broschak, J., George, E. (2003). Happy together? How using nonstandard workers affects exit, voice, and loyalty among standard employees. *The Academy of Management Journal*, 46(4), 475-485.
- Davis-Blake, A., & Uzzi, B. (1993). Determinants of employment externalisation: A study of temporary workers and independent contracts. *Administration Science Quarterly*, 38(2), 195-223.
- De Cuyper, N., & De Witte, H. (2005). Job insecurity: Mediator or moderator of the relationship between contract type and well-being. *SA Journal of Industrial Psychology*, 31(4), 79–86.
- De Cuyper, N., De Witte, H., & Isaksson, K. (2005). Employment contracts: How to deal with diversity? In N. De Cuyper, K. Isaksson, & H. De Witte (Eds.), *Employment contracts and well-being among European workers* (pp. 15-34). Aldershot: Ashgate.
- Defillippi, R., & Arthur, M. (1994). The boundaryless career: A competency based perspective. *Journal of Organisational Behaviour*, 15(4), 307-324.
- De Gilder, D. (2003). Commitment, trust and work behavior. The case of contingent workers. *Personnel Review*, 32(2), 588–604.
- De Jong, J., & Schalk, R. (2005). Temporary employment in the Netherlands: Between flexibility and security. In N. De Cuyper, K. Isaksson, & De Witte, H.

(Eds.), *Employment contracts and well-being among European workers* (pp. 119-152). Aldershot: Ashgate.

De Vries, R., & Wolbers, M. (2005). Non-standard employment relations and wages among school leavers in the Netherlands. *Work Employment and Society, 19*(3), 503-525.

De Witte, H., & Näswall, K. (2003). Objective versus subjective job insecurity: Consequences of temporary work for job satisfaction and organizational commitment in four European countries. *Economic and Industrial Democracy, 24*(2), 149-188.

Drucker, P. (2002). They're not employees, they're people. *Harvard Business Review*, February, 70-77.

Drucker, P. (1989). *The new realities* (1st ed.). Oxford, England: Heinemann.

Earley, P., Northcraft, G., Lee, C., & Lituchy, T. (1990). Impact of process and outcome feedback on the relation of goal setting to task performance. *Academy of Management Journal, 33*, 87-105.

Eberhardt, B., & Moser, S. (1995). The nature and consequences of part time work: A test of hypotheses. *Journal of Applied Business Research, 11*, 101-108.

Edwards, R. (1979). *Contested terrain*. New York, NY: Basic Books.

Ellingson, J., Gruys, M., & Sackett, P. (1998). Factors related to the satisfaction and performance of temporary employees. *Journal of Applied Psychology, 83*, 913-921.

Engelland, A., & Riphahn, R. (2005). Temporary contracts and employee efforts. *Labour Economics, 12*, 281-299.

Farber, H. (2000). Alternative employment arrangements as a response to job loss. In D. Neumark (Eds.), *On the job: Is long term employment a thing of the past?* New York, NY: Russell Sage Foundation.

Feather, N., & Rauter, K. (2004). Organizational citizenship behaviours in relation to job status, job insecurity, organizational commitment and identification, job satisfaction and work values. *Journal of Occupational and Organizational Psychology, 77*, 81-94.

Feldman, D., Doeringhaus, H., & Turnley, W. (1995). Employee reactions to temporary jobs. *Journal of Managerial Issues, 7*(2), 127-141.

Finegold, D., Levenson, A., & Buren, M. (2005). Access to training and its impact on temporary workers. *Human Resource Management Journal, 15*(2), 66-85.

- Fletcher, C. (2002). Appraisal: An individual psychological analysis. In S. Sonnentag (Eds.), *Psychological management of individual performance* (pp.115-135). Chichester, England: John Wiley & Son.
- Fletcher, C. (2001). Performance appraisal and management: The developing research agenda. *Journal of Occupational & Organizational Psychology*, 74(4), 473–487.
- Foote, D. (2004). Temporary workers: Managing the problem of unscheduled turnover. *Management Decision*, 42(8), 963-973.
- Foote, D., & Folta, T. (2002). Temporary workers as real options. *Human Resource Management Review*, 12(5), 579-597.
- Forde, C. (2001). Temporary arrangements: The activities of employment agencies in the UK. *Work, Employment and Society*, 15(3), 631-644.
- Forde, C. (2000). Temporary arrangements: The activities of employment agencies in the UK. *Centre for Industrial Relations and Human Resource Management Working Paper, 2*, Leeds University.
- Forde, C., & Slater, G. (2006). The nature and experience of agency working in Britain: What are the challenges for human resource management. *Personnel Review*, 35(2), 141–157.
- Forde, C., & Slater, G. (2005). Agency working in Britain: Character, consequences and regulation. *British Journal of Industrial Relations*, 43(2), 249–271.
- Forde, C., & Slater, G. (2001, March). Just a temporary phenomenon? The rise and fall of temporary employment in the UK. Paper presented at the European Work and Employment Research Centre, Manchester School of Management.
- Gannon, M. (1974). A profile of the temporary help industry and its workers. *Monthly Labour Review*, 97(5), 44-49.
- Gannon, M., & Nollen, S. (1997). Contingent labour: Understanding the changing employment relationship in continuity and change in the employment relationship. In J. Wallace, T. Dalzell, & B. Delaney (Eds.), Dublin, Ireland: Oak Tree Press.
- Geary, J. (1992). Employment flexibility and human resource management: The case of three American electronics plants. *Work, Employment and Society*, 6, 251–270.
- George, E. (2003). External solutions and internal problems: The effects of employment externalization on internal workers' attitudes. *Organization Science*, 14(4), 386–402.

- Giesecke, J., & Groß, M. (2003). Temporary employment: Chance or risk? *European Sociological Review*, 19(2), 161-177.
- Glaser, B., & Strauss, A. (1967). *The discovery of grounded theory: Strategies for qualitative research*. Chicago, IL: Aldine.
- Golden, L., & Appelbaum, L. (1992). What is driving the 1982-88 boom in temporary employment: Preference of workers or decisions and power of employers. *American Journal of Economics and Sociology*, 51(4), 473-494.
- Gonos, G. (1997). The contest over employment status in the post war United States: The case of temporary help firms. *Law Society Review*, 31(1), 81-110.
- Guell, M., & Petrongolo, B. (2007). How binding are legal limits? Transitions from temporary to permanent work in Spain. *Labour Economics*, 14(2), 153-183.
- Guest, D. (2004). Flexible employment contracts, the psychological contract and employee outcomes: an analysis and review of the evidence. *International Journal of Management Reviews*, 5(6), 1-19.
- Guest, D., Mackenzie Davey, K., & Patch, A. (2003). The psychological contracts, attitudes and behaviour of workers on temporary and permanent contracts. Management Centre Working Paper, King's College, London.
- Gunderson, M. (2001). Economics of personnel and human resource management. *Human Resource Management Review*, 11(3), 431-452.
- Hair, J., Money, A., Samouel, P., & Page, M. (2007). *Research methods for business research*. Chichester, UK: John Wiley & Son.
- Hamel, G., & Prahalad, C. (1994). *Competing for the future*. Boston, MA: Harvard Business School Press.
- Heery, E. (2004). The trade union response to agency labour in Britain. *Industrial Relations Journal*, 35(5), 434-450.
- Heinrich, C., Mueser, P., & Troske, K. (2009). The role of temporary help employment in low-wage worker advancement. In D. Autor (Eds.), *Labor market intermediation*. Chicago, IL: The University of Chicago Press, forthcoming.
- Henricks, M. (1997). Squeeze play. Accordion management could be music to your ears. *Entrepreneur*, 25(8), 66-69.
- Hiltrop, J. (1999). The quest for the best: Human resource practices to attract and retain talent. *European Management Journal*, 17, 422-430.

- Hiltrop, J., Jenster, P., & Martens, H. (2001). Managing the outsourced workforce: Strategic challenges for human resource management. *Strategic Change*, 10, 367-382.
- Hippel, S., & Stewart, J. (1996). Earnings and benefits of workers in alternative work arrangements. *Monthly Labour Review*, 119(10), 46-54.
- Hotopp, U. (2000, October). Recruitment agencies in the UK. *Labour Market Trends*, 457-463.
- Houseman, S. (1997). Temporary, part time and contract employment in the United States: New evidence from an employer survey. Manuscript, WE Upjohn Instr. Employment Relations., Kalamazoo, MI.
- Houseman, S., & Polivka, A. (2000). The implications of flexible staffing arrangements for job stability. In D. Neumark (Eds.), *On the job: Is long-term employment a thing of the past?* New York, NY: Russell Sage Found.
- Houseman, S., Kalleberg, A., & Erickcek, G. (2003). The role of temporary agency employment in tight labour markets. *Industrial and Labour Relations Review*, 57(1), 105-127.
- Huberman, A., & Miles, M. (1994). Data management and analysis methods. In N Denzin & Y. Lincoln (Eds.), *Handbook of qualitative research*. Thousand Oaks, California: Sage.
- Hunter, L., McGregor, A., MacInnes, J., & Sproull, A. (1993). The flexible firm: Strategy and segmentation. *British Journal of Industrial Relations*, 31(3), 383-407.
- Hussey, J., & Hussey, R. (1997). *Business research. A practical guide for undergraduate and postgraduate students*. London, UK: Macmillan Press.
- Inkson, K. (1999). The death of the company career: Implications for management. *University of Auckland Business Review*, 1(1), 10-21.
- James, S. (2011). The Agency Workers Regulations: Preventing a two-tier workforce. *Human Resource Management International Digest*, 19(7), 1-2.
- Jarmon, R., Paulson, A., & Rebne, D. (1998). Contractor performance: How good are contingent workers at a professional level? *IEEE Trans. Eng. Mgmt.* 45(1), 11-19.
- Jones, G., & Hill, C. (1988). Transaction cost analysis of strategy-structure choice. *Strategic Management Journal*, 9, 159-172.
- Jones, G., & Wright, P. (1992). An economic approach to conceptualizing the utility of human resource management practices. In G. Ferris & K. Rowland



(Eds.), *Research in personnel and human resources*, (pp. 271-300). Greenwich, CT: JAI Press.

Judge, T., & Ferris, G. (1993). Social context of performance evaluation decisions. *Academy of Management Journal*, *36*, 80–105.

Kalleberg, A. (2000). Nonstandard employment relations: Part-time, temporary and contract work. *Annual Review of Sociology*, *26*, 341–365.

Kalleberg, A., Reynolds, J., & Marsden, P. (2003). Externalizing employment: Flexible staffing arrangements in US organizations. *Social Science Research*, *32*, 525–552.

Kalleburg, A., Reskin, B., Hudson, K. (2000). Bad jobs in America: Standard and nonstandard employment relations and job quality in the United States. *American Sociological Review*, *65*(2): In press.

Kalleburg, A., Rasell, E., Cassirer, N., Reskin, B., Hudson, K. (1997). *Nonstandard work: Substandard jobs: Flexible work arrangements in the U.S.* Washington DC: Econ. Policy Inst.

Kandel, E., & Pearson, N. (2001). Flexibility versus commitment in personnel management. *Journal of the Japanese and International Economies*, *15*(4), 515-56.

Klein Hesselink, D., Koppens, J., & Van Vuuren, C. (1998). *Flexibiliteit van de arbeid: Achtergronden en effecten. Labour Flexibility: Background and Effects.* Hoofddorp: TNO Arbeid.

Koh, W., & Yer, L. (2000). The impact of the employee organization relationship on temporary employees' performance and attitude: Testing a Singaporean sample. *International Journal of Human Resource Management*, *11*, 366–387.

Korpi, T., & Levin, H. (2001). Precarious Footing: Temporary employment as a stepping stone out of unemployment in Sweden. *Work, Employment and Society*, *15*(1), 127-148.

Kraimer, M., Wayne, S., & Liden, R. (2005). The role of job security in understanding the relationship between employees' perceptions of temporary workers and employees performance. *Journal of Applied Psychology*, *90*(2), 389-398.

Kramar, R. (1999). Policies for managing people in Australia: What has changed in the 1900's? *Asia Pacific Journal of Human Resources*, *37*(2), 24-32.

Krausz, M., & Stainvartz, N. (2005). Employment contracts and psychological contracts in Israel. In N. De Cuyper, K. Isaksson, & H. De Witte (Eds.), *Employment contracts and well-being among European workers* (pp. 103-117). Aldershot: Ashgate.

Krueger, A. (1993). How computers have changed the wage structure: Evidence from microdata. *Quarterly Journal of Economics*, 108(1), 33-60.

Kvale, S. (1996). *Interviews: An introduction to qualitative research interviewing*. Thousand Oaks, California: Sage.

Kvasnicka, M. (2005, May 31). Does temporary employment agency work provide a stepping stone to regular employment? Humoldt University Berlin Working Paper, 1-39.

Lee, D. (1996). Why is flexible employment increasing? *Journal of Labour Relations*, 17(4), 543-553.

Lei, D., & Hitt, M. (1995). Strategic restructuring and outsourcing: The effect of mergers and acquisitions and LBOs on building firm skills and capabilities. *Journal of Management*, 21, 835-859.

Liukkonen, V., Virtanen, P., Kivimäki, M., Pentti, J., & Vahtera, J. (2004). Social capital in working life and the health of employees. *Social Science and Medicine*, 59, 2447-2458.

Locke, K. (2001). *Grounded theory in management research*. London, UK: Sage.

Mackay, M., & Lee, M. (2005). Choice models for the analysis and forecasting of hospital beds. *Health Care Management Science*, 8, 221-230.

Mahoney, J. (1992). The choice of organizational form: Vertical financial ownership versus other methods of vertical integration. *Strategic Management Journal*, 13, 559-584.

Matusik, S., & Hill, C. (1998). The utilisation of contingent work, knowledge creation, and competitive advantage. *Academy of Management Review*, 23, 680-697.

Mauno, S., Kinnunen, U., Mäkikangas, A., & Nätti, J. (2005). Psychological consequences of fixed-term employment and perceived job insecurity among health care staff. *European Journal of Work and Organizational Psychology*, 14(3), 209-238.

McDonald, D., & Makin, P. (2000). The psychological contract, organizational commitment and job satisfaction of temporary staff. *Leadership and Organizational Development Journal*, 21, 84-91.

McGregor, A., & Sproull, A. (1992). Employers and the flexible workforce. *Employment Gazette*, May, 225-234.

- Miles, R., & Snow, C. (1984). Designing strategic human resource systems. *Organizational Dynamics, 13*, 36-52.
- Millward, L., & Brewerton, P. (1999). Contractors and their psychological contracts. *British Journal of Management, 10*, 253-274.
- Moberly, R. (1987). Temporary, part time, and other atypical employment relationships in the United States. *Labour Law Journal, 38*, 689-696.
- Monthly Labour Review. (1997). The law at work: Contractors as employees. *Monthly Labour Review, 120*(10), 34-35.
- Moorman, R., & Harland, L. (2002). Temporary employees as good citizens: Factors influencing their OCB performance. *Journal of Business and Psychology, 17*, 171-187.
- Neubert, M. (1998). The value of feedback and goal setting over goal setting alone and potential moderators of this effect: A meta-analysis. *Human Performance, 11*, 321-335.
- Neuman, W. (2000). *Social research methods: Qualitative and quantitative approaches* (4<sup>th</sup> ed.). Boston, MA: Allyn & Bacon.
- Nollen, S. (1996). Negative aspects of temporary employment. *Journal of Labour Relations, 17*(4), 562-582.
- Nollen, S., & Axel, H. (1996). *Managing contingency workers: How to reap the benefits and reduce the risks*. New York, NY: Am. Mgmt. Assoc.
- OECD. (2002). *Employment outlook*. Paris, France: Organization for Economic Co-operation and Development.
- Olsen, K. (2005). Unions dilemma when firms use employment intermediaries. *European Sociological Review, 21*(3), 289-300.
- Parker, S., Griffin, M., & Wall, T. (2002). Effect of temporary contracts on perceived work characteristics and job stain. A longitudinal study. *Personal Psychology, 55*, 689-719.
- Peak, J., & Theodore, N. (2004). Cycles of contingency: The temporary staffing industry and cycles of contingency in the US. In J. Burgess, & J. Connell (Eds.), *International perspectives on temporary agency work* (pp. 24-36). London, England: Routledge.
- Peak, J., & Theodore, N. (1998). The business contingent work: Growth and restructuring in Chicago's temporary employment industry. *Work, Employment Society, 12*(4), 655-674.

- Pearce, J. (1998). Job security is important, but not for the reasons you might think: The example of contingent workers. In C. Cooper & D. Rousseau (Eds.), *Trends in organisational behaviour* (pp. 31-46). Chichester, England: John Wiley & Son.
- Pearce, J. (1993). Toward an organizational behaviour of contract laborers: Their psychological involvement and effects on employee co-workers. *Academy of Management Journal*, *36*, 1082–1096.
- Pfeffer, J., Baron, J. (1988). Taking the workers back out: Recent trends in the structure of employment. *Relations Organisational Behaviour*, *10*, 257-303.
- Polivka, A. (1996). Contingent and alternative work arrangements, defined. *Monthly Labour Review*, *119*(10), 3-9.
- Polivka, A., & Nardone, T. (1989). On the definition of contingent work. *Monthly Labour Review*, *112*(12), 9-16.
- Purcell, K., & Purcell, J. (1998). In-sourcing, outsourcing, and the growth of contingent labour as evidence of flexible employment strategies. *European Journal of Work and Organisational Psychology*, *7*(1), 39-59.
- Pynes, J. (2004). The implementation of workforce and succession planning in the public sector. *Public Personnel Management*, *33*(4), 389-404.
- Quinn, J. (1992). *Intelligent enterprise*. New York, NY: Free Press.
- Rebitzer, J. (1995). Job safety and contract workers in the petrochemical industry. *Industrial Relations*, *34*(1), 40-57.
- Remery, C., Doorne-Huiskes, J., & Schippers, J. (2002). Labour market flexibility in the Netherlands: Looking for winners and losers. *Work, Employment & Society*, *16*(3), 477–496.
- Rigotti, T., & Mohr, G. (2005). German flexibility: Loosening the reins without losing control. In N. De Cuyper, K. Isaksson, & H. De Witte (Eds.), *Employment contracts and well-being among European workers* (pp. 75-102). Aldershot: Ashgate.
- Ripley, D. (1995). How to determine future workforce needs? *Personnel Journal*, *74*, 83–89.
- Rodriguez, E. (2002). Marginal employment and health in Britain and Germany: Does unstable employment predict health? *Social Science and Medicine*, *55*, 963–979.
- Rousseau, D. (1995). *Psychological contracts in organizations. Understanding written and unwritten agreements*. Thousand Oaks, CA: Sage.

- Sansoni, S. (1997). Move over, manpower. *Forbes*, 160(1), 74-75.
- Schellhardt, T. (1997). Temporary help industry now features battle of the giants. Adecco moves increases pressure on Manpower Inc. and smaller rivals. *Wall Street Journal*, November 6, p.1.
- Segal, L., & Sullivan D. (1997). Temporary services employment durations: Evidence from state UI data. Working Paper, 97-23, Federal Reserve Bank of Chicago.
- Segal, L., & Sullivan, D. (1997b). The growth of temporary services work. *Journal of Economic Perspectives*, 11(2), 117-136.
- Silver, C. (2000). Where technology and knowledge meet. *The Journal of Business Strategy*, 21(6), 28-33.
- Simon, A. (2003). Questions on workforce planning in the APS. *Canberra Bulletin of Public Administration*, 106, 53-56.
- Slater, G. (2003). Temporary work in the UK: Evolution and regulation, Nottinghamshire research observatory occasional paper, number seven.
- Sly, F., & Stillwell, D. (1997, September). Temporary workers in Great Britain. *Labour Market Trends*, 347-354.
- Smith, V. (2000). Teamwork verses tempwork: Managers and the dualisms of workplace restructuring. Manuscript, University of California, Davis.
- Smith, W. (1988). They serve two masters. *Personnel Administrator*, April, p. 112-116.
- Snow, C., Miles, R., & Coleman, H. (1992). Managing 21st century network organizations. *Organizational Dynamics*, 20(3), 5-20.
- Stake, R. (1995). *The art of case study research*. Thousand Oaks, California: Sage.
- Storrie, D. (2002). *Temporary Agency Work in the European Union*. Dublin, Ireland: European Foundation for the Improvement of Living and Working Conditions.
- Stratman, J., Roth, A., & Gilland, W. (2004). The deployment of temporary production workers in assembly operations: A case study of the hidden costs of learning and forgetting. *Journal of Operations Management*, 21(5), 689-707.
- Sullivan, S. (1999). The changing nature of careers: A review and research agenda. *Journal of Management*, 25, 457-484.
- Summers, C. (1997). Contingent employment in the United States. *Compar. Law Journal*, 18(4), 503-522.

- Sverke, M., Gallagher, D., & Hellgren, J. (2000). Alternative work arrangements: Job stress, wellbeing, and work attitudes among employees with different employment contracts. In K. Isaksson, L. Hogsted, C. Eriksson, & T. Theorell (Eds.), *Health effects of the new labour market*. New York, NY: Plenum.
- Tansky, J., Gallagher, D., & Wetzel, K. (1995). The changing nature of the employment contract: The impact of part-time workers on health care industry. Paper presented to the Annual Academy of Management Conference, Vancouver, Canada.
- Ticehurst, G., & Veal, A. (2000). *Business research methods*. Sydney, Australia: Longman Pearson.
- Torka, N., & Van Riemsdijk, M. (2001). Atypische contractrelatie en binding: Een paradox? Atypical employment relationships and commitment: A paradox? *Tijdschrift voor HRM*, 1, 59–76.
- Tsang, M., Rumberger, R., & Levine, H. (1991). The impact of surplus schooling on worker productivity. *Industrial Relations*, 30, 209-228.
- Tsui, A., Pearce, J., Porter, L., & Hite, J. (1995). Choice of employee organization relationship: Influence of external and internal organizational factors. In G. Ferris (Eds.), *Research in personnel and human resources management* (pp. 117-151). Greenwich, CT: JAI Press.
- Valverde, M., Tregaskis, O., & Brewster, C. (2000). Labour flexibility and firm performance. *IAER*, 6(4).649-661.
- Van Breukelen, W., & Allegro, J. (2000). Effecten van een nieuwe vorm van flexibilisering van de arbeid. Een onderzoek in de logistieke sector. Effects of flexibility. A study in the logistic sector. *Gedrag en Organisatie*, 13(2), 107–125.
- Van Dyne, L., & Ang, S. (1998). Organizational citizenship behavior of contingent workers in Singapore. *Academy of Management Journal*, 41, 692–703.
- Von Hippel, C., Mangum, S., Greenberger, D., Heneman, R., & Skoglund, J. (1997). Temporary employment: Can organisations and employees both win? *Academic Management Executive*, 11(1), 93-104.
- Vosko, L. (1998). Regulating precariousness? The temporary employment relationship under the NAFTA and the EC treaty. *Industrial Relations*, 53(1), 1-12.
- Vosko, L. (1997). Legitimizing the triangular employment relationship: Emerging international labour standards from a comparative perspective. *Comp. Labour Law Journal*, 19(1), 43-78.

- Ward, K., Grimshaw., Rubery, J., & Beynon, H. (2001). Dilemmas in the management of temporary work agency staff. *Human Resource Management Journal*, 11(4), 3-21.
- Ward, K., Grimshaw, D., Rubery, J., & Beynon, H. (2000, January). Permeable workplaces paper presented at the Royal Geographical Society / Institute of British Geographers Annual Conference, Brighton.
- Welsh, J., & Deery, S. (1999). Understanding the peripheral workforce: Evidence from the service sector. *Human Resource Management Journal*, 9(2), 50-63.
- Wheeler, A., & Buckley, R. (2000). Examining the motivation process of temporary employees: A holistic model and research framework. *Journal of Managerial Psychology*, 16(5), 339-354.
- Williamson, E. (1981). The economics of organization: The transaction cost approach. *American Journal of Sociology*, 87, 548-577.
- Williamson, E. (1975). *Markets and hierarchies: Analysis and antitrust implications*. New York, NY: Free Press.
- Willman, P., Renton-O'Creevy, M., Nicholson, N., & Soane, E. (2002). Traders, managers and loss aversion in investment banking: A field study. *Accounting, Organisations and Society*, 27, 85-98.
- Wright, C., & Lund, J. (1996). Best practice taylorism: Yankee speed-up in Australian grocery distribution. *Journal of Industrial Relations*, 38, 196-212.
- Young, M. (2003). *The ageing and retiring government workforce*. Lexington, MA: Centre for Organizational Research, Linkage Inc.

## Appendices

### 1. Guidance on AWD legislative changes

**BIS** | Department for Business  
Innovation & Skills

AGENCY WORKERS  
REGULATIONS

Guidance

MAY 2011



# Introduction

## At a glance

This section covers:

- Aim of guidance
- When the law changes
- Quick start

## Aim of guidance

This aim of this guidance is to help both hirers of agency workers and the recruitment sector to understand the Agency Workers Regulations and the implications and responsibilities for both hirers and temporary work agencies.

Each section covers the key provisions of the Regulations and illustrative examples and, where possible, is accompanied by useful links and related flowcharts.

## When the law changes

The legislation comes into force on 1 October 2011, giving agency workers the entitlement to the same basic employment and working conditions as if they had been recruited directly, if and when they complete a qualifying period of 12 weeks in the same job.

It is not retrospective and for those agency workers already on assignment, the 12 week qualifying period will start from 1 October 2011.

From the 1 October 2011, agency workers will also be entitled to access to facilities and information on job vacancies from Day 1 of their assignment.

## New entitlements for agency workers from 1 October 2011

The information below outlines the key changes and new responsibilities

### New entitlements

**Day 1 rights for all agency workers:** If you hire agency workers, you must ensure that they have they can access your **facilities** (such as canteen, childcare facilities, etc.) and can access **information on your job vacancies** from the first day of their assignment.

**After 12 weeks in the same job:** The equal treatment entitlements relate to **pay** and other **basic working conditions** (annual leave, rest breaks etc.) and come into effect after an agency worker completes a **12 week qualifying period** in the same job with the same hirer. After completing the qualifying period, pregnant agency workers will now be allowed to take paid time off for ante-natal appointments during an assignment.

It is **not** retrospective and for those agency workers already on assignment, the 12 week qualifying period will start **from 1 October 2011**.

### What this means for you

**If you are a hirer of agency workers:** If you are an employer and hire temporary agency workers through a temporary work agency, you should provide your agency with up to date information on your terms and conditions so that they can ensure that an agency worker receives the correct equal treatment, as if they had been recruited directly, after 12 weeks in the same job. You are responsible for ensuring that all agency workers can access your facilities and are able to view information on your job vacancies from the first day of their assignment with you.

**If you are a 'temp' agency worker:** From 1 October 2011, after you have worked in the same job for 12 weeks, you will qualify for equal treatment in respect of pay and basic working conditions. You can accumulate these weeks even if you only work a few hours a week. Your temporary work agency is likely to ask for details of your work history to help establish when you are entitled to equal treatment (separate guidance is available for agency workers on [direct.gov](http://direct.gov) website).

**If you are a temporary work agency:** If you are involved in the supply of temporary agency workers, you need to ask the hirer for information about **pay** and **basic working** conditions (when it is clear that the agency worker will be in the same job with the same hirer for more than 12 weeks) so that they are treated as if they had been directly recruited to the job.

# Scope

## Regulations 2-4

### At a glance

The Agency Workers Regulations apply to:

- individuals who work as temporary agency workers;  
individuals or companies (private, public and third sector e.g. charities, social enterprises) involved in the supply of temporary agency workers, either directly or indirectly, to work temporarily for and under the direction and supervision of a hirer;
- and hirers (private, public and third sector)

This section considers who is covered by the Regulations and those who are likely to be outside the Regulations together with illustrative examples.

Covered in this section;

Definition of who is covered by the Regulations

- **Temporary Work Agency (TWA)**
- **Agency worker**
- **Hirer**

Those who are likely to be outside the scope of the Regulations include;

- individuals who find work through a temporary work agency but are in business on their own account (where they have a business to business relationship with the hirer who is a client or customer)
- individuals working on Managed Service Contracts where the worker does not work under the direction and supervision of the host organisation
- individuals working for in-house temporary staffing banks where a company employs its temporary workers directly (and they only work for that same business or service)
- individuals who find direct employment with an employer through an “employment agency”
- individuals on secondment or loan from one organisation to another – this is usually where the main activity of the organisation seconding the individual is not the supply of individuals to work temporarily under the supervision and direction of another party

These Regulations apply to Great Britain. Northern Ireland has separate Regulations in line with their national law.

If there is a dispute about whether someone is within the scope of the Regulations, an Employment Tribunal will consider if the description of the arrangements reflects the reality of the relationship.

## In scope

### The Temporary Work Agency (TWA)

A **temporary work agency (TWA)** supplies **agency workers** to work temporarily for a third party (the **hirer**). The agency worker works temporarily under the supervision and direction of the hirer but only has a contract (an employment contract or a contract to perform work or services personally) with the TWA. Under the Regulations a TWA is a person (individual or company) in business, whether operating for profit or not and including both public and private sector bodies, involved in the supply of temporary agency workers. This could be a **“high street” agency**, but also an **intermediary** such as an **umbrella company** or a **master or neutral vendor** if they are involved in the supply of the agency worker.

An individual is not prevented from being an agency worker under the Regulations simply because they work through an intermediary body. For example, an individual working through an umbrella company, who finds work via a TWA, is covered by the Regulations. The individual will usually have an overarching employment contract with the umbrella company with full employment rights and the employee's income generally being treated as employment income. However, that will not prevent the individual from benefitting from these Regulations.

### Involvement of other parties in the supply of agency worker

Sometimes the supply of agency workers is managed on behalf of a hirer by a master vendor or neutral vendor that may or may not engage and supply workers directly or indirectly. These arrangements exist where a hirer appoints one agency (the master vendor) to manage its recruitment process, using other recruitment agencies as necessary (“second tier” suppliers) or appoints a management company (neutral vendor) which normally does not supply any workers directly but manages the overall recruitment process and supplies temporary agency workers through others.

Master or neutral vendors fall within the legal definition of TWA in view of their involvement in the supply of individuals and/or their role in forwarding payments to such individuals.

**It is important that the correct information from the hirer is shared between parties in the chain of supply of the individual agency worker in order to ensure that whoever actually pays the agency worker is aware of their entitlement, provided by the Regulations, to the basic terms and conditions that they would have received had if they had been directly recruited. See section on information requests for more detail.**

### The Agency Worker (AW)

An agency worker (often referred to as a ‘temp’) is someone who has a contract with the TWA (an employment contract or a contract to perform work personally) but **works temporarily for and under the direction and supervision of a hirer**. The unique **tripartite relationship** between agency worker, agency and hirer is a key feature of these Regulations and who is covered by them.

The key elements required for someone to be an agency worker are:

- there is a contract (an employment contract or a contract to perform work personally) between the worker and a TWA;
- that worker is temporarily supplied to a hirer by the TWA; and
- when working on assignment the worker is subject to the supervision and direction of that hirer AND
- the individual in question is not in a business on their own account (where they have a business to business relationship with the hirer who is a client or customer)

### **Illustrative examples**

#### **Example characteristics of an agency worker (AW)**

- The AW works for a variety of hirers on different assignments but is paid by the TWA who deducts tax and NICs (National Insurance contributions)
- The AW has a contract with the TWA but works under the direction and supervision of the hirer
- Time sheets are given to the TWA who pays the AW for the hours worked
- If an AW is on sick leave, the TWA pays the Statutory Sick Pay (subject to satisfying the criteria applicable to all workers)
- The TWA pays holiday pay when paid statutory annual leave is taken

#### **Example characteristics of a worker who is outside the Regulations**

- The “employment agency” introduces an individual to an employer for a directly employed role, paid by the employer
- The contract is agreed between the worker and employer and is open ended or may be for a fixed period
- There is no on-going contractual relationship between the employment agency and the worker

## **The hirer**

The hirer (end-user) is a “person” – e.g. company, partnership, sole trader, public body - which is engaged in economic activity (whether or not for profit) and which books agency workers via a TWA. The hirer is responsible for supervising and directing the agency worker while they undertake the assignment. A hirer will have its own legal identity – so a division within a company will not be a separate hirer if it does not have its own legal identity.

## Out of scope

The definition of an agency worker excludes those who are in business on their own account where the status of the hirer is that of a client or customer of a "profession or business undertaking" (i.e. a genuine business to business relationship).

### **When is an individual in a profession in or out of scope?**

The definition of an agency worker excludes those who are in a "profession or business undertaking carried out by the individual" where the hirer is a client or customer of the individual (i.e. a genuine business to business relationship). A profession is normally someone who is certified by a professional body such as a doctor or lawyer. Normally a professional or a person in business providing services to a client or customer is not working under that person's supervision or direction. But it is still possible for someone in a profession or in a business to be an agency worker if there is no such client or customer relationship.

### **Simply putting earnings through a limited company would not in itself put individuals beyond the possible scope of the Regulations.**

Individuals may choose to do this for the sake of flexibility or for tax reasons. However, where the relationship between the individual, TWA and hirer remains, in essence, a tripartite relationship, and a hirer is not a client or customer of such individuals, they are likely to be in scope.

In the event of a dispute, in order to establish if a worker is genuinely in business on their own account (business to business relationship), the courts have devised a number of tests which examine the individual's circumstances and consider all aspects of the relationship, including what a contract might say or what it does not say, the expectations of the parties and their conduct, to establish the reality of the relationship.

If the arrangements do not reflect the reality of the relationship (e.g. despite the wording of a contract, the actual reality is that the individual is in not in business on their own account and they work under the supervision and direction of the hirer) or are an avoidance tactic, then individuals are likely to fall into scope of the Regulations.

For further information about employment status and the application of the tests refer to Directgov [Understanding your employment status](#), in particular, the descriptions of agency workers, personal service consultants and independent contractors or consultants. The descriptions outline some of the factors that help determine employment status and include example situations.

**Ultimately, in the event of a dispute, it will be for the Employment Tribunal to decide the reality of the relationships between the parties involved and may, for instance, look at whether the type of arrangements in place are common for the type of worker involved.**

### **Placing a worker in a direct or permanent employment**

The Regulations do not cover employment agencies who introduce workers to employers for direct or permanent employment. Once a worker is placed with an employer they have no further contractual relationship with the agency.

Some recruitment agencies offer both temporary and permanent vacancies. A work-seeker's relationship with the recruiter depends on what type of work that they want to do. These Regulations only apply when supplying temporary agency workers to hirers (i.e. where they are acting as TWAs). TWAs should ensure that they make clear the way in which they are acting on behalf of the individual worker, as required in the [Conduct of Employment Agencies and Employment Businesses Regulations 2003](#).

### **Managed Service Contracts**

Where a company provides a specific service to a customer – such as catering or cleaning this is usually known as a Managed Service Contract which is based on a contract for services that will usually set out certain service level agreements. The managed service contractor has responsibility for managing and delivering the catering or cleaning service and employs rather than supplies the workers.

The Managed Service Contractor must be genuinely engaged in supervising and directing its workers on site on a day to day basis and must determine how and when the work is done. If it is the customer that determines how the work is done, then it is more likely that the workers will be covered by the Regulations.

Merely having an on-site presence (e.g. a named supervisor) would not necessarily mean that there is a Managed Service Contract. Conversely, where the customer has some responsibilities for all workers on site, for example health and safety responsibilities, this would not in itself mean that this was not a Managed Service Contract.

Please note that where a Managed Service Contractor requests agency workers via a TWA to work under their supervision and direction, they will be in scope as the Managed Service Contractor will be the hirer.

### **In-house temporary staffing banks**

In-house temporary staffing banks are used as a source of internal flexibility. In practice, whether or not a particular arrangement falls in scope will depend on the reality of the employment and organisational arrangements. They are unlikely to be in scope where a company employs its temporary workers directly and they are only supplied to work for that same business – so they would not be acting as a TWA. Regulations governing directly recruited fixed term employees – [Fixed term employees \(prevention of less favourable treatment\) regulations](#) – have been in



place since 2002.

If the in-house bank supplies workers to third parties, including associated companies, the in-house bank would be acting as a TWA for the purposes of the Regulations and an employment agency or employment business for the purposes of the [Conduct of Employment Agencies and Employment Businesses Regulations 2003](#).

## **Illustrative examples**

### **Example characteristics that demonstrates and individual is in scope**

- A company has a staff canteen managed by an in-house catering manager. One of the company's catering staff is absent and is replaced by a worker supplied by a TWA. During her assignment the worker is supervised and directed by the hirer's catering manager. She fits the definition of an agency worker and is in scope.
- A number of factory workers are sent by a TWA to work on a hirer's production line. Because there are lots of workers on the line provided by the same TWA, the TWA sends a manager who works on site to deal with issues such as sickness absence or any other problems that may occur in relation to the agency workers. However, each worker still does his or her job under the supervision and direction of the hirer. The workers all fit the definition of an agency worker and are in scope.
- Where one legal entity employs temporary workers and places them into another legal entity (e.g. individual's contract is with one company but they work for another), including other associated or group companies, then they are likely to be acting as a TWA and the workers in scope.

### **Example characteristics that demonstrate you are not in scope**

- An organisation contracts out the management of its canteen. The contractor manages the entire operation of the canteen and is responsible for the direction and control of its own catering staff. Although they are working on the customer's premises, the contractor's workers are not agency workers because they are not subject to direction and control by the customer.
- An individual is working in organisation A, but is on secondment to organisation B, who pays the individual until they return to the original organisation A when the secondment ends. Organisation A is not acting as a TWA as it does not fulfil all the requirements of a TWA given its main activity is not the supply of workers.
- An individual works for an internal project team and is paid directly by his employer, covering a variety of temporary posts dependent on where he is needed. The individual is not in scope.
- Where a single legal entity recruits temporary staff directly who work for the same legal entity they not in scope. The temporary staff are not agency workers and the hiring company is not a TWA.

**In summary**

<b>In scope</b>	<b>Out of scope</b>
<b>TWAs</b> – including intermediaries – involved in supply of agency worker	Genuinely <b>in business on own account</b> working for clients or customers (business to business relationship)
<b>Hirer</b> (end-user) supervising and directing agency worker	<b>In-house temporary staffing banks, secondments</b>
<b>Agency worker</b> (in tripartite relationship including those working through umbrella companies or other intermediaries)	<b>Managed Service Contract</b> staff who work under the supervision and direction of the company who employs or engages them – not under supervision and direction of company where they work

- An individual has set up his own limited company through which he provides IT services. He has a contract with a TWA and is supplied to work on a specific project with an anticipated duration of 12 months. The individual has no fixed working pattern and can determine how and when he performs the services; he can also send a substitute to perform the services at any time or payment is made on specific deliverable or on a fixed price and not simply on an hour, daily or weekly rate. However, he is subject to the hirer's reasonable and lawful instructions. Given the absence of personal service and mutuality of obligation, the company is a client or customer of the individual, therefore the individual is out of scope. This must be a true reflection of the reality of the relationships between the parties involved and not simply a reflection of the contractual terms.

# Qualifying for 'equal treatment'

## Regulations 5-13

### At a glance

This section covers the entitlements that agency workers will receive from the first day of an assignment; entitlements in relation to basic working and employment conditions following a 12 week qualifying period and the timing of the receipt of the entitlements.

Don't forget that agency workers are already entitled to a range of statutory protections under the Working Time Regulations; National Minimum Wage etc.

[Agency worker employment rights](#)

### Rights under these Regulations:

#### Day 1 rights for all agency workers Regulations 12-13

The Regulations give agency workers the same access to certain facilities provided by the hirer and information on job vacancies. The test relates to what comparable workers and employees receive and the agency worker is entitled from the first day of their assignment (so not after 12 weeks).

- Access to facilities
- Access to information relating to vacancies

### Access to collective facilities and amenities:

#### Regulation 12

**From day one of an assignment**, agency workers are entitled to be treated no less favourably than a comparable worker or employee<sup>1</sup> in relation to access to collective facilities and amenities provided by the hirer.

This is not intended to extend to all benefits which a hirer might provide to directly recruited workers or employees; rather, it applies to collective facilities provided by the hirer either to workers or employees as a whole or to particular groups of workers or employees. These may include:

- a canteen or other similar facilities
- a workplace crèche
- transport services (e.g. in this context, local pick up and drop offs, transport between sites – but not company car allowances or season ticket loans)
- toilets/shower facilities
- staff common room
- waiting room
- mother and baby room
- prayer room
- food and drinks machines
- car parking

1

An employee has a contract of employment; a worker is a wider category which includes someone who has a contract of employment or a contract where the individual undertakes to do or perform personally any work or services for someone who is not a client or customer (see to Directgov [Understanding your employment status which contains pen pictures and profiles of workers and employees](#))

This is a non-exhaustive list and acts as an indication of which kind of facilities should be included. It applies to facilities provided by the hirer and therefore these facilities will usually be on-site. However, for example, if a canteen is used on another site – or shared with another company – then this should also be available to agency workers.

### **Access to facilities is not:**

This does not mean that agency workers will be given ‘enhanced’ access rights, for example, where access to a crèche involves joining a waiting list, the agency workers would also be able to join the list and would not be given an automatic right to have a crèche place.

Nor is it about access to off-site facilities and amenities which are not provided by the hirer, such as subsidised access to an off-site gym as part of a benefit package to reward long term service or loyalty or to other types of benefits such as the ability to purchase discounted company goods in a staff shop or subsidised meals in a canteen.. However, this does not prevent hirers offering these to agency workers if they choose to do so.

### **Objective Justification**

This is the only element of these Regulations where there can be “objective justification” for less favourable treatment. Essentially, hirers have to ask themselves “is there a good reason for treating the agency worker less favourably?” Cost may be one factor to take into account but hirers are unlikely to be able to rely on cost alone to justify different treatment. Practical and organisational considerations could also be a factor. Even if there is objective justification, hirers may want to consider whether it is possible or feasible to offer agency workers certain access to facilities on a partial basis, as an alternative to excluding them altogether.

### **Access to facilities – comparable worker**

An agency worker’s right is to treatment in relation to relevant facilities that is no less favourable than that given to an actual comparable worker<sup>2</sup> – an employee or worker directly employed by the hirer.

First, the hirer should establish if there are any comparable workers or employees. To be comparable they should be;

- doing the same or broadly similar work to the agency worker

- working at the same location as the agency worker or, if there is no such person, be in another location owned by the hirer (this is to avoid any confusion when a company has several different locations and may have, for example, a canteen in one particular location to which all direct employees in all the locations have access).
- If there are no comparable workers or employees there is no entitlement to equal treatment

2

An employee has a contract of employment; a worker is a wider category which includes someone who has a contract of employment or a contract where the individual undertakes to do or perform personally any work or services for someone who is not a client or customer (see to Directgov [Understanding your employment status which contains pen pictures and profiles of workers and employees](#))

## Access to information on job vacancies

### Regulation 13

**From day one of an assignment**, all agency workers will be entitled to be provided with information about any relevant job vacancies within the hirer that would be available to a comparable employee or worker.

Hirers can choose how to publicise vacancies, whether it is via the internet/intranet or on a notice board in a communal area. But the agency worker should know where and how to access this information.

### Access to vacancies is not:

This obligation does not constrain hirers' freedom regarding;

- any qualification or experience requirements such as time in service with the organisation
- how they treat applications

This right will not apply in the context of a genuine 'headcount freeze' where posts are ring fenced for redeployment purposes or internal moves which are a matter of restructuring and redeploying existing internal staff in order to prevent a redundancy situation.

### Access to vacancies comparator

The need to inform agency workers of vacancies is limited to where there is a comparable employee or worker currently based at the same establishment. Practical difficulties would arise from including those who may be geographically remote or on the basis of comparison with a predecessor.

## **In summary**

### **Day 1 entitlements – liability**

The hirer is responsible for providing equal treatment for day 1 entitlements and is liable for any breach of this obligation given the TWA has no control over providing an agency worker with access to facilities when they are on an assignment.

Information about access to facilities is likely to be set out in company handbooks. The hirer could either provide agency workers with information about their facilities, for example as part of an induction pack, or provide information to TWAs to pass to agency workers as part of the information about the assignment.



## Summary of Day 1 rights

Comparator for Day 1 Rights	access to facilities	access to vacancies
Employee or worker	Yes	Yes
Working for and under the supervision and direction of the hirer	Yes	Yes
Engaged in same or broadly similar work	Yes	Yes
Based at same establishment	Yes	Yes
Based at different establishment	Yes	No
Must still be employed/engaged at the time of the breach of the Regulations	Yes	Yes

## After 12 weeks in the same job

### Regulation 6

After an agency worker completes a 12 week qualifying period with the same hirer, in the same role, they will be entitled to have the same basic terms and conditions of employment as if they had been employed directly by the hirer. They are;

- **key elements of pay**
- **duration of working time** e.g. if working is limited to a maximum of 48 hours a week
- **night work**
- **rest periods**
- **rest breaks**
- **annual leave**

In addition, pregnant agency workers who have completed the 12 week qualifying period, will be entitled to **paid time off for ante natal appointments**.

For any entitlement requiring a period of service – e.g. enhanced entitlement to annual leave after 12 months – the period starts at the time the qualifying period commenced (not 12 months and 12 weeks but 12 months).

## Calculating the 12 week qualifying period

### Regulation 7

The 12 week qualifying period is **triggered by working in the same job with the same hirer for 12 calendar weeks**. A calendar week in this context will comprise any period of seven days starting with the first day of an assignment. Calendar

weeks will be accrued regardless of how many hours the worker does on a weekly basis.

Therefore, even if the agency worker is on assignment for only a couple of hours a week, it will still count as a week and they will still be entitled to equal treatment after 12 calendar weeks calculated in this way.

For example, an agency worker begins work on a Tuesday so all work done up to and including the following Monday will count as one calendar week.

### **Accrual of 12 week qualifying period**

The qualifying period is **not retrospective**; an agency worker will only start to accrue the 12 weeks qualifying period after the Regulations come into force on 1 October 2011 even if the assignment started before 1 October 2011.

An agency worker can qualify for equal treatment after 12 weeks in the same role with the same hirer, regardless of whether they have been supplied by more than one TWA over the course of that period of time.

This means that even if the agency worker has just joined a particular TWA, he or she may already have completed the qualifying period in relation to a particular role with a hirer, or at least have accrued a number of weeks towards completing it. In order to ensure that the agency worker receives their correct entitlement, the TWA will normally want to ask the agency worker for their up to date work history - the aim being to ensure that they have the correct information. This is already common practice for TWAs, who would of course be well-advised to ask for this information, since not to do so could leave that TWA in a position where it may be liable, in whole or part, for any lack of equal treatment.

### **Information on previous assignments**

While there is no legal obligation on the agency worker to provide information on previous assignments, if an agency worker fails to inform the TWA when asked if they have worked for a hirer before, and then brings a claim for equal treatment, the Tribunal may take this into account in making any award.

### **Anti-avoidance provisions**

**Hirers and TWAs should also be aware of the anti-avoidance provisions which prevent a series of assignments being structured so as to prevent an agency worker from completing the qualifying period (see section on anti-avoidance measures to encourage compliance for more details).**

### **Working for multiple hirers**

An agency worker might work for more than one hirer during a week (or even during a day) resulting in more than one qualifying period running at any one time.

## **Illustrative examples**

### **Working through multiple agencies**

An agency worker works for a hirer for 6 weeks and is assigned by TWA 1 and is placed in the same hirer in the same job three weeks later by TWA 2 for a further 8 weeks. There has been no break of more than 6 weeks, the clock on the qualifying period pauses after 6 weeks and restarts when the agency worker returns to the same job.

### **Working for multiple hirers**

An agency worker has an assignment to drive an HGV1 lorry one day a week for 4 different hirers.

The agency worker will qualify for equal treatment in each of the separate hirers after 12 weeks subject to any breaks the agency worker takes during any of the assignments.

## **The Qualifying Clock**

The working patterns of agency workers can be irregular. The Regulations therefore provide for a number of circumstances in which breaks do not prevent agency workers from completing the qualifying period.

These provisions can best be explained by thinking of the qualifying period as a clock which runs from 0 to 12. Sometimes a gap between assignments – or a move to a new assignment - will mean that the clock is reset to 0 and must start again. In other circumstances a break will merely ‘pause’ the clock which will then continue to tick when the agency worker returns. In some limited circumstances, the clock will continue to tick even if the agency worker is not working on an assignment.

### **Reasons for the qualifying clock to reset to zero;**

- Most commonly it will be because an **agency worker begins a new assignment with a new hirer**
- Where an **agency worker remains with the same hirer but is no longer in the same role**. The circumstances in which an agency worker is regarded as no longer working in the same role are considered below
- If there is a **break between assignments with the same hirer of more than 6 weeks** (which is not one which ‘pauses’ the clock or during which it continues to ‘tick’)

### **Types of break that will cause the qualifying clock to ‘pause’;**

- A break for **any reason** where the break is **no more than six calendar weeks** and the agency worker returns to the same role with the same hirer
- A break of up to 28 weeks because the agency worker is incapable of work because of **sickness or injury**

weeks	
Sickness absence	Pauses the clock for up to 28 weeks
Annual leave	Pauses the clock
Shut downs – e.g. factory closure, school holidays	Pauses the clock
Jury service	Pauses the clock for up to 28 weeks
Industrial action	Pauses the clock
Pregnancy and maternity-related absence	Clock keeps ticking *
Statutory maternity, paternity or adoption leave	Clock keeps ticking **

- Any break which is for the purpose of **taking leave** to which the agency worker is entitled, including annual leave.
- A break up to 28 calendar weeks to allow the agency worker to perform **jury service**
- A break caused by a **regular and planned shutdown** of the workplace by the hirer (for example at Christmas)
- A break caused by a **strike, lock out or other industrial action** at the hirer's establishment

### **Breaks where the clock continues to tick**

- Breaks due to **pregnancy, childbirth or maternity** which take place during pregnancy and up to 26 weeks after childbirth.
- Any breaks due to the worker taking **maternity leave, adoption leave or paternity leave.**

In each of these cases the clock will continue to tick for the originally intended duration of the assignment, or the likely duration of the assignment (whichever is longer).

### **Illustrative examples**

#### **Workplace closure**

Where an agency worker works in a factory and has an assignment which starts for 2 weeks before it closes during the summer period and continues when it reopens after the summer (or 2 separate assignments before and after the summer holidays). As the factory effectively closes, the qualifying 'clock' will pause and continue running from where it left off when it re-opens. This will also be the case where a hirer closes due to industrial action.

#### **Different types of consecutive absences**

An agency worker has a break of 5 weeks between assignments, then is absent for 2 weeks due to sickness. Sickness absence 'pauses' the clock, which then resumes ticking when the worker returns to the same role. In these circumstances, the break is longer than 6 weeks but continuity is not broken as the clock pauses after 5 weeks.

#### **In summary**

\* The protected period for a pregnant agency worker begins at the start of the pregnancy and ends 26 weeks after childbirth (or earlier if she returns to work) \*\*Where an agency worker has a contract of employment with an agency and is entitled to this type of leave

<b>Type of absence that affects the 12 week qualifying period</b>	<b>Effect on 12 week qualifying period</b>
Agency worker begins a new assignment with a new hirer	Clock resets to zero
Agency worker remains with the same hirer but is no longer in the same role (substantively different role)	Clock resets to zero
Break between assignments of more than 6 weeks (which is not one which 'pauses' the clock or during which it continues to tick)	Clock resets to zero
Any reason where the break is less than 6	Pauses the clock

## Definition of 'new' hirer

The qualifying clock will be reset to zero if the agency worker stops working for one hirer and begins working for another.

Generally such situations will be clear. A new hirer for this purpose must be a different person (a different legal entity). Where a single hirer has multiple sites, merely moving the worker from one site to another will not usually break continuity (unless it is a substantively different role – see section on factors which indicate role is substantively different)

Where a hirer is part of a larger group and each company has its own legal identity, then the qualifying period will restart when an agency worker moves between the different legal entities. **TWAs should check this point with hirers.**

However, hirers and TWAs should be aware of the anti-avoidance provisions which prevent a series of assignments from being structured in such a way as to prevent the worker from completing the qualifying period. These provisions would cover, for example, the situation where an agency worker is moved back and forth across a group where there is common ownership via holding companies and subsidiaries and the intention is to deprive the agency worker from receiving equal treatment.

### Illustrative examples

An agency worker acting as a Supply Teacher moves from one assignment to a separate assignment with another school without any break (or the break is no more than 6 weeks). The agency worker has not worked for either school since the introduction of the Regulations so there are no previous assignments to consider. If the second school has a separate legal identity then the qualifying period starts again as it is with a new hirer. If both schools are part of the same legal entity then the qualifying period continues.

An NHS Trust hires agency workers to work within its hospitals. Assuming the NHS Trust is a single legal entity, the qualifying period will continue to tick if an agency worker moves from one hospital to another within the Trust where there are no breaks between assignments or the break is no more than 6 weeks.

An agency worker is supplied to a number of different government departments as a PA. The qualifying period would continue to tick if the agency worker moved from one department to another to work as a PA as it is the same legal entity subject to any breaks between assignments which the agency worker takes.

## **Substantively different**

If there is a substantive change to a job role within the same hirer, a new qualifying clock commences for the new role.



**However, for this to happen, the work or duties which make up the whole or main part of a role must be substantively different;** it is not enough that a line manager has changed but not the job requirements or that the agency worker has transferred between similar administrative functions or has moved within a single, relatively small business unit or has been given a different pay rate. None of these things by themselves would be sufficient. There has to be a genuine and real difference to the role.

### **The factors that may make the work or duties substantively different**

In the event of a dispute, a combination of factors can be expected to be taken into account by a Tribunal when establishing whether or not the work or duties are substantively different.

### **A combination of the following characteristics can help to establish if the work or duties are substantively different;**

- Are different skills and competences used?
- Is the pay rate different?
- Is the work in a different location/cost centre?
- Is the line manager different?
- Are the working hours different?
- The role requires extra training - and/or a specific qualification that wasn't needed before?
- Is different equipment involved?

### **Illustrative examples**

A warehouse has agency workers to work on a production line and to pack their products for distribution. Simply moving from the production line to a packing role requires little training and uses the majority of the same skills and is therefore unlikely to be substantively different. If they are working in the same role, then the agency workers will qualify for equal treatment after 12 weeks subject to any breaks between assignments.

An agency worker has worked on a production line but then moves to an administrative role. This is likely to be considered substantively different and the qualifying period would start again.

In order for the 12 week qualifying clock to be reset to zero, the hirer must notify the agency that the work or duties have changed and this information must be passed to the agency worker:

## **12 week assignments and anti-avoidance provisions**

A hirer can obviously decide not to engage agency workers beyond the 12 week qualifying period. There is nothing in the Regulations to prevent an agency worker being released after say 11 weeks or for assignments of 12 weeks to be the usual practice of any hirer. However, hirers and TWAs should be aware of anti-avoidance provisions which address any situation where a pattern of assignments emerge that are designed to deliberately deprive an agency worker of their entitlements.

For example, an agency worker completes 2 or more assignments with the same hirer, where they have already worked for 12 weeks with a 6 week break and then a further 12 weeks with another 6 week break. If the agency worker is then taken on for a third assignment, this could be considered an attempt to avoid the completion of the qualifying period but it would need to be clear that the attempt was deliberate. This would be a matter for the Tribunal in the event of a claim.

## **How to identify ‘basic working and employment: Conditions’ and the relevance of a “comparator”**

### **Regulation 5**

#### **At a glance**

This section covers how to identify what are the “basic working and employment conditions” to which an agency worker would be entitled if they qualify under these Regulations to receive them.

It also examines when a “comparator” is appropriate and how one is identified.

### **How equal treatment is established**

Deciding what “equal treatment” means will usually be a matter of common sense – the requirement is simply to treat the worker as if he or she had been recruited directly to the same job.

Equal treatment is not required in respect of all the terms and conditions that the person would have received had they been recruited directly. It covers basic working and employment conditions. They are those which are ordinarily included in relevant contracts (or associated documents such as pay scales, collective agreements) of direct recruits. This means terms and conditions normally set out in:

(a) Standard contracts;

- A hirer must notify a TWA in writing when there is a new role that is substantively different (see [Conduct Regulations](#) for more details) and record details of on the job requirements.
- The TWA must provide a description of the new role in writing to the agency worker. The TWA should record details about the new vacancy and notify the agency worker, in writing, that their role has substantively changed and that the qualifying period will start again.

- (b) A pay scale or pay structure;
- (c) A relevant collective agreement;
- (d) A company handbook or similar

It would not apply if there were genuinely no 'basic working and employment conditions' that apply generally.

In most cases equal treatment can be simply established by giving the same relevant entitlements "**as if**" he/she had been recruited as an employee or worker to the same job, i.e. what pay and holidays would he/she would be entitled to, given a particular role and his/her particular skills and qualifications.

### **Comparator**

**It is not necessary to look for a comparator.** Given what is said above, it is quite possible to identify the appropriate "basic working and employment conditions" without one.

However, the hirer will be deemed to have complied with the Regulations on equal treatment on basic working and employment conditions if the hirer identifies an appropriate comparator and treats the agency worker in the same manner. In these circumstances the comparator must be an employee<sup>3</sup>.

A comparator needs to be engaged in broadly similar work, but account can be taken of their skills and qualifications as this may justify a higher level of pay for the comparator. They must work at the same or, if there is no comparable employee in the same workplace, in another of the hirer's workplaces. They will not be a comparable employee if they are no longer employed by the hirer.

## **Illustrative examples**

### **Where a hirer has pay scales or pay structures**

A hirer has various pay scales to cover its permanent workforce, including its production line. An agency worker is recruited on the production line and has several years' relevant experience. However the agency worker is paid at the bottom of the pay scale. Is this equal treatment?

Yes if the hirer would have started that worker at the bottom of the pay scale if recruiting him or her directly. But if the worker's experience would mean starting further up the pay scale if recruited directly, then that is the entitlement.

Starter grades which apply primarily, or exclusively, to agency workers may not be compliant if not applied generally to direct recruits.

### **Where there are no pay structures**

A hirer has decided to increase its workforce on a particular shift with agency workers. There are 10 permanent staff and 3 agency workers, doing the same work. The permanent employees are paid between £8-10 per hour– those recruited most recently being paid £8 per hour, the higher rate reflecting on the job experience. The work involves no specialist skills and only minimal on-job training. The agency workers are recruited at a rate of £6 per hour and continue to be paid at that rate after 12 weeks. Is this allowed?

No; there is clearly a rate of at least £8 for the job and the agency workers would be entitled to at least this after 12 weeks on the assignment.

### **Where there are no pay scales or structures or comparable permanent employees**

A company engages an agency worker as a receptionist for the first time. The company does not have anyone doing the same job and does not have pay scales or collective agreements. The agency worker is paid at the same rate before and after the 12 week qualifying period. Is this allowed?

Yes; there are no pay scales or collective agreements, or a 'going rate', so in relation to pay, there are no relevant terms and conditions ordinarily included in the contracts of employment of employees in the hirer. However if, say, the company gives all its permanent employees 6 weeks paid annual leave and paid time off for bank and public holidays, the agency worker should be entitled to the same treatment on these points

### **All directly recruited terms individually negotiated**

A sales company pays its 10-person sales force at different rates. The rates vary considerably and all depend on individual negotiation. There is no going rate. An agency worker is paid at the same rate before and after the qualifying period. Is this equal treatment?

Yes; if all rates really are individually negotiated and there is no established custom and practice as regards pay – which the hirer and agency would need to be very clear was the case. But, as in the previous example, if there is a clear company policy on, for instance, annual leave, the agency worker would be entitled to equal treatment in that respect.

### **Equal treatment on pay for agency workers who work through umbrella companies**

Where an agency worker works through an umbrella, the pay they receive should be the same as if they had been recruited directly – or paid to a comparator if appropriate. Where an umbrella worker receives part of their pay as reimbursement for travel expenses and, for example, where a directly recruited worker or employee would receive £100 per day, the umbrella worker must still receive £100 a day but this can be made up of £80 plus £20 reimbursement of travel expenses.

# Pay

## At a glance

Having completed the 12 week qualifying period, the agency worker is entitled to the same basic terms and conditions that he or she would have received if recruited directly. This includes terms and conditions relating to key elements of pay. Pay for these purposes means sums of money paid to the worker in connection with the worker's employment.

This guide explains what is included and excluded in the definition of 'pay'.

## 'Pay' includes

- basic pay based on the annual salary an agency worker would have received if recruited directly (usually converted into hourly or daily rate, taking into account any pay increments)
- overtime payments, subject to any requirements regarding the number of qualifying hours
- shift/unsocial hours allowances, risk payments for hazardous duties
- payment for annual leave (any entitlement above the statutory minimum of 5.6 weeks can be added to the hourly or daily rate) – to avoid confusion this should be identified separately on the agency worker's payslip
- bonus or commission payments directly attributable to the amount or quality of the work done by the individual. This can include commission linked to sales or production targets and payments related to quality of personal performance (see sections below on bonuses linked to personal performance and performance appraisal systems). This might also include non-contractual payments which have been paid with such regularity that they are a matter of custom and practice.
- vouchers or stamps which have monetary value and are not "salary sacrifice schemes" – e.g. luncheon vouchers, child care vouchers

## 'Pay' excludes

- occupational sick pay (the Regulations do not affect an agency worker's statutory entitlement to statutory sick pay)
- occupational pensions (agency workers will be covered by new automatic pension enrolment which will be phased in from October 2012 – see website for more details [www.dwp.gov.uk/policy/pensions-reform](http://www.dwp.gov.uk/policy/pensions-reform))
- occupational maternity, paternity or adoption pay (the Regulations do not affect an agency worker's statutory entitlements)
- redundancy pay (statutory and contractual)
- notice pay (statutory and contractual linked to loss of employment)

- payment for time off for Trade Union duties
- guarantee payments as they apply to directly recruited staff if laid off
- advances in pay or loans e.g. for season tickets
- expenses such as accommodation and travel expenses
- payments or rewards linked to financial participation schemes such as share ownership schemes, phantom share schemes
- overtime or similar payments where the agency worker has not fulfilled qualifying conditions required of someone directly recruited. For example, an agency worker would have to be doing work over and above standard hours to qualify for overtime, not just working a shift that permanent staff tend to work on an overtime basis
- the majority of benefits in kind (see reference to vouchers in stamps which have a monetary value and are included on previous page), given as an incentive or reward for long-service, for example, where Building Society staff may be given a reduced rate mortgage, employer funded training allowances
- any payments that require an eligibility period of employment/service, if not met by the agency worker (same treatment as if directly recruited) or if the agency worker is no longer on assignment when the bonus is paid (if the same applies to those directly recruited i.e. no longer working for the hirer)
- bonuses which are not directly linked to the contribution of the individual
  - e.g. a flat rate bonus that is given to all direct recruits to encourage loyalty or long term service
- additional discretionary, non-contractual bonuses, as long as these payments are not made with such regularity that they have become custom and practice
  - see section above on bonuses and commission payments



## **Bonuses linked to individual performance**

There are many different types of bonus or commission payments. The key question is whether the bonus or incentive payment or reward is directly attributable to the amount and quality of work done by the agency worker. If it is for another reason other than the amount or quality of the work, such as to encourage the worker's loyalty or to reward long-term service then it is outside the scope of the entitlement to the same terms and conditions relating to pay.

### **Examples of bonus payments that would be included;**

- commission payments linked to sales;
- bonuses payable to directly recruited staff who meet a specific individual performance target, e.g. in terms of calls handled in a given time;
- bonuses payable on the basis of individual performance over a given period, e.g. a reporting year

### **Examples of bonus payments which would be excluded;**

Bonuses which are determined by the overall performance of the company and given to workers who have been with the hirer for a number of years (and are not based on their individual performance)

- bonuses which are determined by the overall performance of the part of the organisation where the agency worker has worked, where there is no recognition of individual contribution
- bonuses designed to reward loyalty and service to the organisation and not based on individual performance

Even where an agency worker does qualify for the bonus, they will not have to receive exactly the same bonus as any particular directly-recruited worker but should have the same opportunity to achieve a bonus, subject to their personal performance.

Where a bonus payment to a direct recruit would reflect performance and time served (so if someone directly recruited and present for only six months of a reporting year would have received 50% of a bonus), that would also be the case for an agency workers.

### **Performance appraisal systems**

The Regulations do not require integration of agency workers into performance appraisal systems for someone directly recruited. It may be easier in some circumstances to fully integrate the agency worker but it is not a requirement.

The agency worker is entitled to the bonus that he or she would have been entitled to if hired direct to do the same job, but this does not mean that the same process for assessing performance need be followed.

For example, annual appraisals can cover long term career development and it would be appropriate for the hirer to modify the assessment process and to conduct shorter appraisals for agency workers.

Conducting an appraisal of an agency worker's performance in the role, in order to determine this aspect of "pay", should not of itself affect the worker's employment status.

It may however be considered inappropriate to fully integrate the agency worker into the hirer's appraisal system. Where an agency worker qualifies for equal treatment in respect of a bonus that would normally be calculated on the basis of a performance appraisal system, alternative approaches could include:

- creating a simpler system to appraise agency workers - agency workers will normally have clear objectives to help them undertake the assignment which could form the basis of their appraisal and this could be aligned to that used by the hirer
- utilising an agency's existing appraisal/feedback system to keep track of their performance through regular discussion between the hirer and agency – this could be utilised to decide if an agency worker should get a “standard” bonus or one linked to high achievement

### **Illustrative examples**

#### **Where an individual performance bonus is in scope of pay**

A line manager is carrying out an annual individual assessment for a member of their team, using 4 criteria derived from their employee company values.

- 1) Competence in performing role
- 2) Working relationships with internal and external stakeholders
- 3) Business achievement in terms of contribution to achieving company/unit targets
- 4) Attendance record

The bonus levels differ depending on performance – not met values (no payment); achieved values (£1,000 bonus); exceeded values (£2,000 bonus).

The hirer will need to share the standard of the agency workers performance with the agency.

If the award of the bonus requires a period of qualifying service then the agency worker would also be subject to that period of service.

#### **Bonus following an eligibility period**

There is an eligibility period of service for all employees of 12 months before receiving a bonus. The agency worker will be entitled to the same treatment after 12 months.

The 12 months eligibility period is counted from the start of the assignment so the agency worker does not have to work 12 months plus 12 weeks before they receive an entitlement a directly recruited employee would have received after 12 months.

#### **The hybrid (company and individual performance)**

In many instances a bonus scheme is based initially on company performance or performance of specific business unit to create a “pot”, and then awarded depending on individual performance (levels vary according to performance marking). This kind of scheme is likely to be within the scope of “pay” under the Regulations, as it is awarded to directly recruited staff on the basis of performance

and so linked to the amount or quality of work done by a worker. If it is possible to identify a part of the award linked solely to company performance – which should be out of scope – and the part of the award linked to personal performance, then the agency worker will only be entitled to that part of the award that can be shown to be linked to personal performance.

## Annual pay award

Where a hirer gives an annual pay increment, an agency worker should receive the pay increment that he or she would have been entitled to if recruited directly to do the same job, therefore the TWA and hirer need to keep in touch to ensure that agency workers receive correct pay entitlements.

What is included in “pay”	What this means	Does not mean
<b>Basic Pay</b>	‘Pay for work done’; annual salary usually converted in hourly/daily rate. NB to this may be added some or all of the other contractual elements below and includes shift / unsocial hours / pay and risk payments for hazardous duties	Occupational pension contributions; redundancy/severance, expenses; occupational sick pay occupational maternity, paternity, adoption pay Note: agency workers are entitled to statutory sick pay (paid by TWA)
<b>Overtime pay</b>	Extra pay for additional overtime hours	An automatic entitlement for extra pay as an agency worker will still need to qualify for overtime as if recruited directly (where such criteria apply to the latter group)
<b>Bonus or incentive payment linked to personal performance</b>	‘Pay for work done’ and directly attributable to the individual	Bonuses based solely on company performance; to encourage the worker’s loyalty or to reward long-term service
<b>Holiday pay</b>	Above the statutory minimum, can be given as leave or paid in lieu as part of the hourly/daily rate or at end of assignment	Other contractual and statutory paid leave, (e.g. compassionate leave, paid time off for union duties or jury service) NB unless employed by the TWA, who would be responsible for any such provision due
<b>Vouchers or stamps</b>	Of fixed monetary value so another form of “pay”, such as luncheon vouchers	Other benefits in kind, Financial Participation Schemes, Phantom Share Schemes
<b>Paid time off for antenatal appointments</b>	After the 12 week qualifying period, paid at full hourly rate for the time it takes to attend the appointment	

## **Working time and holiday entitlements**

### **At a glance**

This section covers what is included in working time and holiday entitlements. In addition to existing rights ([Working Time Regulations 1998](#)), after 12 weeks in a given job, an agency worker will be entitled to the same terms and conditions relating to the duration of working time, night work, rest periods and rest breaks, annual leave and to be paid at the appropriate overtime rate as he or she would have received as a direct employee.

### **Working time entitlements – duration of working time; night work; rest periods and breaks**

Many hirers may already offer some or all of these entitlements to agency workers from day one of an assignment.

For example, where a someone directly recruited would have had a more generous entitlement to rest than the statutory minimum requirement (perhaps a lunch hour rather than the minimum 20-minute rest during a shift of more than six hours), an agency worker working the same shift will also be entitled to this once the 12-week qualifying period has elapsed.

Duration of working time this might cover a variety of conditions. For example, if someone directly recruited to the same job would not be expected to work more than 48 hours then the agency worker should be offered the same terms and conditions.

### **Paid Holiday leave**

In relation to paid holiday leave, all workers have a statutory entitlement to 5.6 weeks per year (based on their working pattern – somebody working five days a week is entitled to  $5.6 \times 5 = 28$  days) which can include bank and public holidays.

As with rest breaks, if a hirer would have given a more generous contractual leave entitlement to the agency worker if recruited directly to fill the same job, the agency worker concerned should receive the same enhanced entitlement once the 12-week qualifying period has elapsed.

### **Payment in lieu option**

There will be many differing entitlements to paid holiday leave provided by hirers and a possible way of simplifying the administration of this entitlement could be to deal with any additional entitlement – over and above the statutory entitlement – as a one off payment at the end of the assignment or as part of the hourly/daily rate. Such arrangements would only relate to additional, contractual leave which is in excess of the statutory minimum.

It is important to remember that payment of the statutory entitlement to annual leave should be made when the leave is taken to ensure that individuals do take the leave to which they are entitled. There will be no change to the existing law in this respect.



## **Pregnant workers and new mothers**

### **At a glance**

After completing a 12 week qualifying period in a given job, pregnant agency workers will be allowed paid time off to attend antenatal medical appointments and antenatal classes when on assignment.

If they can no longer complete the duties of the original assignment for health and safety reasons, they will also need to be found alternative sources of work (paid at a rate that is no less favourable than the last assignment which was terminated on health and safety grounds related to the pregnancy).

If alternative work cannot be found, then the pregnant woman will have the right to be paid by the agency for the remaining expected duration of the original assignment.

This provision does not give the agency worker any additional entitlement to maternity, paternity or adoption rights beyond those to which they would otherwise have been entitled.

### **Existing provisions**

The intention of these provisions is to protect agency workers who are pregnant or who are new mothers, with the aim of keeping them in the workplace and to ensure women are not treated unfairly because of their pregnancy. This is in addition to existing discrimination protections in the Equality Act 2010. The Equality Act provides that that less favourable treatment on grounds of pregnancy or maternity is discrimination.

This would mean, for example, it would be discrimination if agency refused to place a worker, or if a hirer refused to accept a worker because she was pregnant. Similarly, it would be discrimination if a placement were terminated because of pregnancy or if the worker was subject to a detriment because of her pregnancy. An employment agency needs to ensure that it doesn't discriminate when offering/providing its services. For example, it may be indirect discrimination if an agency refused to accept a woman onto its books because she only wanted to accept part-time work or offered only very short term placements to pregnant women while offering longer placements to other agency workers. Case law indicates that, it may be discrimination in certain circumstances where a company fails to allow an agency worker to return to the temporary post which she had previously occupied, following absence due to maternity.

This guidance applies to pregnant women, women who have given birth in the last 6 months or women who are breastfeeding.

### **Responsibility of the pregnant agency worker**

The agency worker will need to first notify the agency of her pregnancy and also in writing to the hirer. The agency may wish approach the hirer on her behalf and to ask for a health and safety risk assessment in the current assignment.



If the hirer identifies a risk, they will need to make an adjustment if it is reasonable. If it is not reasonable, the agency should offer alternative suitable work if available, where the agency worker be paid at the same rate until the end of the assignment. The agency worker will not be eligible to be paid if they have unreasonably refused suitable alternative work.

The agency worker should inform the agency of any ante-natal appointment so that she will continue to be paid at the usual hourly rate.

## **Responsibility of the TWA**

If the nature of the assignment is such that a risk to health and safety is likely, the agency will need to ask the hirer to perform a workplace risk assessment and make a reasonable adjustment if necessary.

If this is not possible, the agency will need to seek alternative suitable work with another hirer, paid at least at the same rate and ensure that the agency worker is paid for any period of the assignment when she could not work due to a health and safety risk.

## **Responsibility of the hirer**

When a risk assessment is required, it is the hirer's responsibility to carry one out and where a risk is identified, the hirer is obliged to make adjustments to remove the risk.

If an adjustment is not possible or reasonable and would not remove the risk, the hirer should inform the agency who will offer suitable alternative work if available.

## **Suitable alternative work**

The agency worker will need to be offered suitable alternative work, paid at a rate that is no less favourable than the last assignment and in line with the type of work that they have agreed to undertake with the agency.

The clock will continue to tick and the pregnant agency worker will continue to accrue weeks in relation to both the original hirer and the new hirer where she is working in another role.

## **If the agency doesn't have a suitable alternative role available**

In a case where an agency worker's assignment is ended on maternity related health and safety grounds, if the agency is not able to find a suitable alternative assignment, the agency will be required to pay the agency worker at the same rate for the duration of the terminated assignment. If the end date of the assignment is not known, the agency will be required to pay the agency worker for what would have been the likely duration of the terminated assignment.

## **Ante-natal appointments**

After a 12 week qualifying period in a particular job, a TWA will be required to pay an agency worker for time that she has to take off from an assignment in order to attend her ante-natal appointment.

The payment will be the agency worker's current hourly rate and must be paid for each hour that she misses of her assignment. The agency worker can be required to provide evidence of her appointments (though not for the first appointment which is usually to confirm the pregnancy). It is reasonable to ask an agency worker to give an estimate of how long an appointment will last and how long it will then take her to get to work.

Antenatal care may include relaxation or parent craft classes as well as medical examinations, if these are recommended by the agency worker's doctor.

You will need to bear in mind that ante-natal clinics can be busy places and patients are not always seen on time and the payment covers the entire appointment including the time taken to and from the appointment if it's during assignment hours.

Directgov advice to individuals is to try to avoid taking time off work where you can reasonably arrange classes or examinations outside working hours.

## Pay between assignments

### At a glance

There is an **exemption from equal treatment provisions on pay (and holiday pay)** where a TWA can offer an agency worker a permanent contract of employment and pay the agency worker between assignments i.e. during the periods when they are not working when there are no available suitable assignments for the agency worker. This means that after 12 weeks in a given job, the agency worker will not be entitled to the same pay as if they had been recruited directly.

The TWA should explain this to the agency worker so they can make an informed decision as to whether they are willing to agree to forgo this entitlement and enter into a permanent contract with them. In any event, the contract of employment has to contain a statement to the effect that entering into such a contract means that the agency worker does not have any entitlement to equal pay as set out in the regulations.

The rate of pay between assignments must be at least 50% of on assignment pay, at least National Minimum Wage ([NMW](#)) and calculated using a reference period. The reference period is usually the 12 weeks immediately preceding the period of pay between assignments. The protections under this provision are in addition to a wider range of statutory employment rights available to employees.

### New entitlements

All agency workers, including those covered by this pay between assignments exemption, are entitled to other new provisions under the regulations – in particular equal treatment in relation to the duration of working time, night work, rest periods and rest breaks and annual leave after 12 weeks (in these circumstances the entitlement is to time off rather than pay – the paid annual leave entitlement will be as set out in the contract of employment between the TWA and the agency worker).

Additionally they must receive day 1 entitlements as these rights apply regardless of these agency workers being on a pay between assignments contract. The exemption only covers pay.

### Permanent contract of employment

To qualify for this exemption, the agency worker must be given a [permanent contract of employment](#) with the TWA and agree the terms and conditions that will apply across assignments and the level of pay between these assignments. There is no requirement to pay the agency worker before the first assignment under the contract has begun.

These contracts must comply with the requirements in the regulations regarding certain specified conditions such as;

- minimum pay rates and their basis of calculation
- location of work, reflecting where the agency worker is willing to travel

- minimum and maximum expected hours (e.g. an agency worker may only be available for 2 days per week so a 5 day assignment would not be 'reasonable')
- nature of work
- a statement that makes clear that the agency worker is foregoing entitlements to equal treatment in so far as they relate to pay

Additionally the pay between assignments must be at least 50% of assignment pay based on previous 12 weeks and not below the [National Minimum Wage \(NMW\)](#). It applies to the calendar weeks in between assignments where the agency worker is available to work but has no assignment, and such pay is calculated at the highest pay rate and hours enjoyed in the course of the previous 12 weeks - where the previous assignment lasted longer than 12 weeks, or during the previous assignment, where it was shorter than 12 weeks.

### **Pay between assignments – when it does and does not apply**

The pay between assignments derogation does not apply to periods between two short assignments which fall within the same week. This reflects the fact that the regulations provides that any week during which an agency worker works during an assignment covered by the derogation contract counts as a full calendar week e.g. allowing a worker on a derogation contract to accrue service towards the 12 week qualifying period for other relevant terms and conditions apart from those relating to pay.

Payment between assignments must be at least 4 weeks of pay before the contract is terminated. If the contract is still running and the agency worker is between assignments then the pay must continue to maintain the contract. Clearly this may exceed the 4 weeks minimum.

### **Anti-avoidance measures**

The Regulations refer to contracts of greater than 'one hour' per week in order to demonstrate that providing a 'zero hours' contract (which may not provide a sufficient amount of mutuality of obligation, required in an employer/employee relationship) will not meet the requirements of the derogation contract.

The pay between assignments derogation is designed to be used where an agency worker has a contract of employment with a TWA and is paid during the weeks when the worker is not assigned to a hirer. It is because of this pay, when the worker is not assigned, that the Regulations provide for the derogation from equal treatment on pay. TWAs and hirers should not structure arrangements in a way that deprives agency workers of the protection provided by pay between assignments. This could put them at risk of a legal challenge.

## **Illustrative examples**

If a TWA were to pay the agency worker for a short period (which might be as little as one hour) when there is in reality no assignment available, a worker could argue that he or she is not working under the supervision and direction of the hirer and so the obligations in the Regulations to pay the agency worker between assignments applies.

If the hours that a TWA offers differ from the expected hours of work included in the contract, this could likewise result in a challenge.

If there is no permanent contract of employment between the TWA and agency worker which complies with the requirements of the derogation then the agency worker could be entitled to the equal treatment provisions under the Regulations which apply in the absence of such a contract. In the event of a successful claim, the TWA (and/or the hirer) will be responsible for any breach (and associated penalties) to the extent that they are responsible for the infringement. This will depend on the circumstances of individual cases

## **Rate of pay between assignments**

The agency worker will need to receive at least 4 weeks of pay between assignments (at the 50% rate or at least NMW) before the contract can be terminated. The agency must take reasonable steps to find a suitable assignment and where it does this, the agency worker will not be able to complain of a breach of the agreement or allege that a right to equal treatment on pay.

## **A suitable offer of work**

From the outset, and before the first assignment, the TWA and agency worker will need to discuss, agree and note in a written contract what the agency worker is willing to accept on any particular assignment. If an agency worker refuses a suitable assignment then, depending on the circumstances and the contract between the agency worker and the TWA, the agency worker may not be available for work and therefore not entitled to receive pay between assignments.

## **Ending a pay between assignments contract**

If the TWA wants to terminate the contract it must first satisfy the requirement for the TWA to give 4 weeks' pay to the agency worker. The 4 weeks' pay must be paid before the TWA can terminate the contract. The contract can end earlier other than by termination by the TWA e.g. if the agency worker resigns<sup>4</sup>.

If the obligation to pay 4 weeks' pay has been met during the duration of the contract then it does not have to be paid again at the end of the contract – for example, a contract has been running for a year, during the year the agency worker has been paid between assignments for at least 4 weeks, at the end of the contract no further payment under these regulations is required. Other contractual obligations e.g. notice pay, may apply which are outside of these Regulations.

<sup>4</sup> If agency worker resigns no payment is required as agency worker rather than TWA has terminated contract

## **Pregnant workers working on a pay between assignments contract**

The maternity provisions, where a worker is suspended for health and safety reasons, apply for the length of the original intended duration of assignment or likely duration of the assignment - whichever is the longer.

Once these provisions no longer apply - i.e. they wouldn't otherwise be performing the original assignment - from that point the pay would be determined by the pay between assignments contract.

### **Illustrative examples**

**An agency worker on a production line but the hirer decides they do not need the agency worker during a quiet period. The agency worker returns when the work picks up.**

The TWA pays the agency worker for the weeks where there is no work, in the event that they cannot find the agency worker alternative work, as set out in the contract of employment.

### **When a TWA cannot find work for an agency worker**

An agency worker works for a hirer for 4 weeks at £10.00 per hour for 40 hours. The TWA cannot find the agency worker a suitable job the next week so the agency worker is entitled to at least 50% of rate of pay as long as it is at least the NMW. Therefore the agency worker is entitled to 40 hours x NMW and will be paid until the TWA finds the agency worker alternative work or terminates the contract (in all circumstances the agency worker must have received at least 4 weeks' pay between assignments either during the contract or at the end of the contract)

## Information requests, liability and remedies

### At a glance

This section covers:

- the information required by a TWA before placing an agency worker on assignment
- when a TWA should ask the hirer for information about basic working and employment conditions following 12 weeks in a given job
- compliance information required by a TWA from a hirer
- what steps the agency worker can take to obtain information from the agency and hirer
- what happens if an agency worker does not receive a response to their request and if they are unsatisfied with the response
- how a claim to an Employment Tribunal is dealt with given multiple parties are involved and penalties that a Tribunal might award

It is preferable for disputes to be solved in the workplace at the earliest opportunity, minimising costs, stress and time involved for all parties. [Acas](#) can get involved in pre claim and post claim conciliation.

### Information a TWA must have before supplying an agency worker

For each vacancy a TWA (“the agency”) receives from a hirer, they must record details about the vacancy including the details as set out in separate, pre-existing legislation, the [Conduct Regulations](#), before they introduce or supply an agency worker to that hirer. The [Gangmasters licensing](#) regulations apply in the food and agricultural and shellfish sectors.

### When a TWA should ask a hirer for information about basic working and employment conditions

It may be clear at the start of an assignment that it will last for more than 12 weeks and it may be good practice for the TWA to ask for information at an early stage – or even in advance of the assignment starting.

But this is a matter between the TWA and hirer and no timescale has been deliberately set out in the Regulations to give flexibility.

In some instances the assignment may be scheduled to last for less than 12 weeks but is extended. In this situation, the TWA should contact the hirer to obtain information as the agency worker can request information, in writing, any time after the 12 weeks have elapsed. In the event of multiple TWAs involved in the supply of the agency worker, the TWA who has the direct contractual relationship with the hirer should undertake this action



## Compliance information required by a TWA from a hirer

A TWA cannot supply an agency worker to a hirer without certain information due to existing legislation (refer to [Conduct Regulations for more details](#));

- the identity of the hirer, nature of business and location
- start date and duration of assignment
- job role, responsibilities and hours
- the experience, training, qualifications and any authorisation which the hirer considers are necessary, or which are required by law, or by any professional body in order to work in the position
- any risks to health or safety known to the hirer and what steps the hirer has taken to prevent or control such risk
- any expenses payable by or to the work-seeker

In addition, a hirer will need to provide the TWA with the following details in order to comply with these Regulations (usually found in standard terms and conditions or a company handbook), if and when an agency worker completes 12 weeks in a given job. As the entitlement to equal treatment begins in week 13, this information should be provided promptly – when it is clear that the assignment will last more than 12 weeks.

- the level of **basic pay** (based on the annual salary an agency worker would have received, as if recruited directly) if and when there are **overtime payments** and **shift/unsocial hours** allowances or **risk payments for hazardous duties**
- types of **bonus** schemes the hirer operates (and how individual performance is appraised and information on annual pay increments)
- if they offer **vouchers** which have monetary value
- **annual leave entitlement**

While day 1 entitlements are the responsibility of the hirer, it may be useful for the TWA to enquire about the facilities on their premises and how they provide information on their job vacancies. But this is a matter for the TWA and hirer to agree.

### Working through multiple TWAs

It is essential that correct hirer information is supplied from one TWA to another where there are intermediaries involved in the supply of an agency worker, such as master or neutral vendor arrangements or umbrella companies (who are classed as TWAs under the Regulations). In the event of a claim, the Tribunal would decide which party was responsible for any breach to the extent that it is responsible for the infringement.

## Process for an agency worker to obtain information

Agency workers are entitled to information relating to their equal treatment entitlements, if they believe their entitlements under the Regulations have been infringed. This process depends on what aspect of equal treatment they are requesting information on.

- if it is in relation to **Day 1** entitlements (such as access to information on vacancies or access to collective facilities or amenities), then the requirement to provide information lies with the hirer and information can be requested any time after the start of the assignment (a hirer might provide information direct to the agency which in turn passes it to the agency worker in advance of the assignment starting or the hirer might issue information as part of the induction of agency workers but that is a matter for the hirer and TWA)
- if it is about entitlements **after the 12 weeks qualifying period** then the requirement to provide information lies with the TWA and the agency worker can only request information after the 12 weeks have elapsed.

Agency workers should be encouraged to talk to the TWA in the first instance as the TWA will often be able to resolve difficulties without resorting to formal procedures or to liaise with the hirer to ensure the agency worker receives the information. This informal approach is not required by the Regulations.

Under the Regulations an agency worker can take the following action in relation to Day 1 entitlements, for example access to facilities such as childcare or car-parking. The agency worker should approach the hirer direct with a written request for information before making a claim. The hirer has 28 days to respond in writing from receipt of the request.

### **The hirer should provide;**

- a written statement with all relevant information relating to the rights of a comparable worker or employee; and
- reasons for the treatment of agency workers

For access to facilities, the hirer may have good reasons why the agency worker is treated differently which is permissible but can be challenged. Different treatment requires objective justification. Essentially, hirers would have to ask themselves “is there a good reason for treating the agency worker less favourably?” Cost may be a factor but by itself is unlikely to justify different treatment. Practical considerations could be a factor – for example the child care facility may be at full capacity. Where there is a waiting list system then the agency worker should be treated in the same way as a comparable employee or worker.

If the request is in relation to basic working and employment rights applicable after 12 weeks in a given job, the agency worker cannot request information until the 12 weeks have elapsed. In this instance the agency worker can request a written statement from the TWA about any aspect of equal treatment they do not believe they were receiving before making a claim

**The TWA has 28 days from receipt of the request to respond in writing to the agency worker setting out;**

- relevant information relating to basic working and employment conditions e.g. rate of pay, number of weeks of holiday as set out in company handbooks, usual contractual terms etc.
- any relevant information or factors that were considered when determining the basic working and employment conditions – for example, if there is a pay scale where the agency worker is put on the pay scale.
- where the equal treatment is based on a flesh and blood comparable employee (doing the same or similar work), the information describes the terms and conditions applicable to that employee, explains any difference in treatment, e.g. lower rate of pay based on lower level of qualifications, skills, experience and expertise.

**If an agency worker does not receive a written statement about basic working and employment conditions**

If an agency worker has not received a written statement within 30 days of making that request, the agency worker can then write to the hirer requesting the same information. The agency worker has to wait until the TWA has had the chance to respond before approaching the hirer.

**In summary If an agency worker is unsatisfied with the response or does not receive a response**

<b>Entitlement</b>	<b>Who must provide written info</b>	<b>When can the agency worker challenge their treatment on assignment</b>
Can I use the company car park? Can I use on site child care facilities?	Hirer	Day 1. The hirer has 28 days from receipt of the written request to respond in writing
I do not consider I am receiving the correct holiday entitlement/rate of pay?	Agency in first instance; then hirer	Once the agency worker has qualifying for equal treatment. If a written response is not received from the agency within 30 days of making the request then the agency worker can write to the hirer who has 28 days from receipt to respond.

An agency worker can bring a claim an Employment Tribunal in relation to their rights in the Regulations. The Tribunal can draw an adverse inference from the fact that a written statement that was requested was not provided. The agency worker can bring a claim without a written request but should be encouraged to seek information before making a claim.

A Tribunal will not consider a complaint under the Regulations unless it is presented within 3 months of the actual breach (a Tribunal may still consider a complaint if it is just and equitable to do so).

To help resolve matters without the need for Tribunal intervention, [Acas](#) will be able to get involved in pre and post claim conciliation.

## **Liability and remedies**

### **Regulations 14, 17 and 18**

#### **Responsibilities in the event of a claim**

Liability rests with the hirer for failure to provide Day 1 entitlement. The TWA will not be held liable because they do not have a role in delivering these entitlements as the TWA has no influence or role in providing access, for example, to a company canteen.

For failure to provide basic working and employment conditions, liability can rest with either the TWA (or TWAs where more than one is involved in the supply of the agency worker) and/or the hirer to the extent that each is actually responsible for the failure. Even if the TWA will be initially responsible for the breach of the equal treatment principle, it will have a defence if it can show that it obtained or took "reasonable steps" to obtain relevant information from the hirer about its basic working and employment conditions and treated the agency worker accordingly. If it can establish this defence then the hirer will become liable for that liability which would have been the TWAs.

The hirer will be liable for any breach to the extent that it is responsible for the infringement. So, if a hirer had failed to provide information to the TWA, or provided incorrect information, about basic working and employment conditions and the agency worker was not receiving appropriate treatment under the Regulations, then the liability could be the sole responsibility of the hirer.

It is therefore in the interests of all parties to exchange information in a timely manner. As a matter of good practice TWAs should put in place reminders so they can check with the hirer if there have been any changes to terms and conditions and pay rates which affect agency workers. Similarly hirers should notify TWAs when they amend their basic working and employment conditions e.g. pay and bonus reviews.

In a Tribunal claim, where the responsibility or a breach of Regulations is not clear, or has not been conceded, as between TWA and hirer, the agency worker may claim against both the TWA and the hirer at the outset. This does not mean that a Tribunal can be asked to find that there is "joint and several liability" for breaches. The Regulations ensure that any party in the chain of relationships (i.e. a hirer or a

TWA) can be named at the outset or joined to a claim and be liable to the extent that the Tribunal finds they are to blame for the infringement.

### **If a Tribunal upholds an agency worker's complaint:**

The Tribunal will generally be able to award financial compensation (and penalties in certain circumstances), make a declaration setting out the agency worker's rights in relation to the complaint and/or recommend that the hirer/TWA takes certain action to remove the adverse effect on the agency worker.

### **What an agency worker will receive**

The agency worker will be compensated for any loss of earnings related to their entitlements under the Regulations – or receive an appropriate level of compensation, for example if they have been denied access to a facility. There is no maximum award but there is a minimum award of two weeks of pay regardless of the value of the loss, unless a Tribunal finds that the agency worker behaved unreasonably, having the power to reduce the award if it is just and equitable.

Where the agency was unaware that there had been previous service with a hirer in a particular post that could be aggregated with new service proposed at that hirer, this could mean that the 12 week qualifying period would be reached earlier. This situation could arise where the hirer was a large company or where the company has multiple sites. If an agency worker arrives on site for a new assignment and realises that they have been engaged there previously, they should inform the agency straight away.

If an agency worker brings a claim and has not told the agency or hirer they worked for the hirer before (and were therefore already entitled to equal treatment or qualified before the 12 weeks elapsed) a Tribunal can take this into account when deciding the level of compensation in any claim.

### **Anti-avoidance measures to encourage compliance**

The Regulations contain an "anti-avoidance" provision designed to prevent structures of assignments that are put in place to intentionally circumvent the Regulations.

In all circumstances, the agency worker must have completed at least two assignments or two roles (in substantively different roles which break the qualifying period) with the same hirer or connected hirers within the same group, in order for the anti-avoidance provisions to become relevant.

Factors which would indicate that a pattern of assignments was structured with the intention to deprive the worker of equal treatment rights could be;

- the number of assignments
- the length of assignments
- the number of role changes
- whether the role changes were substantively different
- the length of break periods

It would still ultimately be for a Tribunal to decide whether the pattern of assignments indicated an intention to deprive the worker of his or her rights, weighing evidence from the worker that one or more of the factors applied against evidence from the hirer/agency that the motivation behind the pattern was different and legitimate. In these circumstances, the Tribunal may make an award of up to £5,000.

### **Illustrative example**

#### **An agency worker makes a claim after being rotated between companies that are legally connected in the same group, into similar roles with regular frequency**

If this happens, the Employment Tribunal may consider that the motivation behind this action was to deprive the agency worker of equal treatment. In these circumstances the agency worker will be deemed to have completed the 12 weeks qualifying period or will retain the entitlement to equal treatment.

This could result in a penalty of up to £5,000 against the hirer or TWA or split between parties in a way the Tribunal considers just and equitable.

## Other factors

### At a glance

This section covers other factors that are affected by the Agency Workers Regulations;

- thresholds for bodies representing agency workers; from 1 October 2011 temporary agency workers will count towards the thresholds in Temporary Work Agencies for the purposes of calculating the thresholds above which a representative body may be established. This will not apply to agency workers that are employees of the TWA
- information of workers' representatives; you must provide relevant information on the use of agency workers supplied in all the situations where there is currently an obligation on employers to provide information on the employment situation

### Thresholds for bodies representing agency workers

Employees have a number of rights to establish bodies to represent their interests in discussions with management. The rights are not automatic and depend on threshold provisions which establish the minimum number of workers or employees an organisation must employ before they come into effect.

The laws that establish these rights do not state that representative bodies should automatically be established. They allow employees to instigate a procedure which may lead to the establishment of a representative body.

The Directive does not give new representational or consultative rights to temporary agency workers. The Directive requires agency workers to count towards the calculation of the thresholds above which the existing rights in these areas are calculated. In the UK this will apply to the TWA where the worker is registered and not to the hirer.

If a temporary agency worker has a relationship with two or more agencies the agency worker could potentially count towards the threshold of each one, because they may have on-going relations with each. However, if a person 'on the books' of the temporary work agency has not been supplied to a hirer or an intermediary by the agency they cannot subsequently be included in the thresholds count as they will not meet the definition of an 'agency worker'.

### Representative bodies

There are various types of representative bodies which are established to enable employers and employees to communicate, consult and negotiate effectively with each other. These include on-going, broad-topic bodies such as European Work Councils and Information and Consultation representative bodies and also those set up for specific issues and Health and Safety representative bodies.

The law does not apply to the establishment of a representative body for the purposes of collective redundancy. Because they are not employees, temporary agency workers cannot in the legal sense be made redundant, therefore cannot be



counted towards such a threshold.

If you are a temporary work agency you will need to consider the qualifying points after which a temporary worker may be entitled to be counted towards the threshold count for the purposes of establishing a representative body at your agency.

**Information on the establishment of representative bodies can be found at:**

<http://www.acas.org.uk/index.aspx?articleid=2391>

## **Information of workers' representatives**

There are various situations where you have a statutory obligation to provide information to employees and their representatives about the employment situation at your business. This includes on-going mechanisms such as collective bargaining, Joint Consultative Committees and European Works Councils. It also covers issue-specific situations including collective redundancies and Transfer of Undertakings (TUPE) situations.

The Regulations provide that where information is provided on the employment situation, information should also be provided on the use of agency workers. The information must be provided to employees or their representatives.

### **Information must include:**

- the total number of agency workers engaged
- the areas of the business in which they are utilised
- the type of work they are contracted to undertake

The definition of information to be provided does not include information on agency workers' terms and conditions.

In addition to the various pieces of legislation that have been amended, you have a statutory duty to provide information relating to temporary agency workers under the Safety Representative and Safety Committee Regulations 1977 and the Health and Safety (Consultation with Employees) Regulations 1996.

As a hirer you will need to put processes in place to manage the additional administrative procedures that this requires. You will also need to know your obligations and the financial penalties which may apply if the legislation is breached. Further details on statutory obligations can be found on;

#### **TUPE**

<http://www.berr.gov.uk/files/file20761.pdf>

Collective bargaining

<http://www.acas.org.uk/CHttpHandler.ashx?id=273&p=0>

Collective redundancies

<http://www.acas.org.uk/CHttpHandler.ashx?id=877&p=0>

European works Councils

<http://bis.gov.uk/policies/employment-matters/rights/info-con/ewc>

© Crown copyright 2011 You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. Visit [www.nationalarchives.gov.uk/doc/open-government-licence](http://www.nationalarchives.gov.uk/doc/open-government-licence), write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

This publication is also available on our website at [www.bis.gov.uk](http://www.bis.gov.uk)

Any enquiries regarding this publication should be sent to: Department for Business, Innovation and Skills 1 Victoria Street London SW1H 0ET Tel: 020 7215 5000

If you require this publication in an alternative format, email [enquiries@bis.gsi.gov.uk](mailto:enquiries@bis.gsi.gov.uk), or call 020 7215 5000.

**URN 11/949**

## 2. Interview questions

### Concerning the decision to engage (mechanisms and controls).

1. Tell me about the organisational process / procedures that human resource management / line management follow when determining whether to employ a temporary or permanent member of staff?

-----

2. Do you know if the organisation has any policies stipulating what the proportion of temporary to permanent employees should be for any given department or level of position?

-----

3. If so, can you tell me what business strategy this policy is trying to facilitate / achieve? Examples might include but are not limited to – increased flexibility in consideration to downsizing, outsourcing, offshoring, or to provide internal mobility amongst permanent employees.

-----

4. Is the proposed length of a temporary assignment considered in the decision making process to employ a temporary employee?

-----

5. If so, what is the maximum period of time designated before that position transfers from being considered a temporary position to a permanent employment position?

-----

6. Does the organisation have a buffer policy used to distinguish the employer employee relationship? i.e. must a temporary employee leave the banks employ at the end of a designated period of time? What is this time period?

-----

7. If the position being recruited for had previously been a temporary role, is the length of the previous employment taken into consideration in the decision to employ another temporary employee?

-----

### Concerning performance appraisal (mechanisms and controls).

8. At the end of the intended period of temporary employment, is the decision to employ a temporary worker reassessed at this time, with the view to either terminate or continue the temporary employment arrangement?

-----

9. If this mechanism exists, in what employment capacity does this person enter into with the organisation? i.e. is the temporary position terminated, is the person made a permanent employee, or does the temporary employee continue in a temporary capacity on an on-going basis?

-----

10. Where temporary assignments are on-going in nature (greater than 1 year) is the performance of the temporary employee ever formally assessed? And if so, at what point in time?

-----

11. If this mechanism exists, is this assessment (both good and bad) ever formally communicated with the temporary employee in terms of making improvements to performance, and for their own personal and professional development?

-----

12. Where temporary assignments are on-going in nature (greater than 1 year) are KPI's or additional departmental objectives ever set for temporary employees in addition to normal day to day business requirements?

-----

13. When a permanent employee resigns and there is already a balanced contingent of temporary workers within this department, are the performance of temporary workers assessed at this time with the view to making a temporary employee a permanent employee?

-----

14. If a performance appraisal is conducted at this time and a temporary employee is not made permanent, do temporary employees continue to occupy and retain the same temporary position in an on-going capacity?

-----

15. Are you aware of any UK employment law pertaining to temporary employment?

-----

16. Can you tell me of any obligation required under these laws?

-----

### 3. Summary of responses to each question

#### *Division A – Line Manager*

#### 1. Tell me about the organisational process / procedures that human resource management / line management follow when determining whether to employ a temporary or permanent member of staff?

'I've used temporary contract staff for many years in different management roles. Across those roles there was a cyclical approach to the work – so intensely busy during particular periods throughout the course of the year. Because of that you get a peak and a trough'.

Because of these peaks and troughs I've tried to balance the way in which we use people.

'Headcount has always been kept very tight. Very strict on how we can get headcount approval be it permanent, contracting or on a temporary basis'.

'Strategy taken to keep the permanent head count really tight. Tell the team why we've decided to do that, and then bring in a temporary member of staff to cover the peak in activity'.

Upside and a down side to employing a temporary worker - More cost effective, but time consuming to train on procedures and systems.

'Looked to bring somebody in had worked for me previously and was looking for a temporary role. So I brought them in because I knew them, I could trust them, could train them very quickly, I knew their skills, and it worked quite well'.

Process – formal process

I would sit with my direct line management – head of the equity group and say this is way I need the headcount and I'd have to justify it. So I'd put together a paper summarising the reasons why I need the member of staff, these are the statistics and the justification behind it – i.e. volumes, peaks and troughs.

1. Line manager
2. Head of Equities
3. Global head of equities
4. Human Resources
5. Temporary recruitment desk to source applicants.

No internal system used, just done on email with the justification attached.

HR will look at the application, including sign off, and will normally challenge the request to determine if the role really is justified. i.e. Do you need this head count, why do you need this head count, what kind of person are you looking for, do you have anyone in mind, do you have a copy of the job description, is the description still accurate.

---

2. Do you know if the organisation has any policies stipulating what the proportion of temporary to permanent employees should be for any given department or level of position?

Not that I'm aware of.

'Never looking to have find a balance of temporary staff so we can lose temporary staff as quickly as possible. That's not the approach'.

'The approach is to keep a stable tight headcount with the focus on keeping the permanent resources to what is required, and not keeping anything over and above that'.

---

3. If so, can you tell me what business strategy this policy is trying to facilitate / achieve? Examples might include but are not limited to – increased flexibility in consideration to downsizing, outsourcing, offshoring, or to provide internal mobility amongst permanent employees.

Whilst there has been on-going initiatives to outsource the process this has never been managed by using temporary resources with the view to downsize.

'Not seen any evidence where an operational process is planned to be offshored in say 2 years where temporary staff will be used to fill that void'.

---

4. Is the proposed length of a temporary assignment considered in the decision making process to employ a temporary employee?

'Absolutely – peaks and troughs. Initial consideration is always what is the length of time were going to need this person. I'd much rather justify it correctly and get it right because as we get to the end of that period I have to go through another authorisation process to get it extended'.

To get extensions to initial contracts there is a formal approval process. All systems access will be revoked by Hays unless they have an email providing sign off.

Sign off goes through the same chain as the initial approval process for every extension to an existing temporary assignment. Example given where a worker went from temp to perm and approval even needed to be obtained for the 2-3 week period where the temporary assignment came to an end and when the permanent contract was to start.

'I tend to look at employing workers on a 3 month contract. This is because I'm looking at ways of how to be cost effective'.

'Most of the time senior managers within the approval chain do ask or challenge if the request to employ a temporary worker is cost effective'. This comes more from senior management rather than HR.' Less so from HR I would say.'

'A temporary worker will cost more in short term cash value but without long term costs in terms of pension and additional permanent worker benefits'.

'I look at the contract length matching what I can afford, as well as what I need them for and not keeping them for longer than what is necessary'.

---

5. If so, what is the maximum period of time designated before that position transfers from being considered a temporary position to a permanent employment position?

'9 months for me. You'd have to be able to justify a long enough period through the 3 quarters and justify that is going to happen again. 6 months doesn't really give you enough detail to make the judgement to make a permanent change. 9 months gives you that provided you've got the forward looking analysis to back it up'. So then you have enough to look forward on and back on.

There is a point where the organisation will say you can't extend this contact any longer. 51 weeks is that limit in our area certainly. That may change, but to continuing rolling a contact in my area just wouldn't happen.

We don't really get the prompt I would say from HR to say you've had this person for 9 months do you really need this person or is this a permanent role. This prompt is really coming down from the Head of Equities – further up the approval chain.

---

6. Does the organisation have a buffer policy used to distinguish the employer employee relationship? ie. must a temporary employee leave the banks employ at the end of a designated period of time? What is this time period?

'I'm not aware of any one being employed as a temporary worker for longer than the 51 week window. I've not seen the formal wording of that, but it's my understanding that that would be the formal limit unless they're signed off as permanent headcount certainly within this division in the UK'.

'I was discussing a situation in August with an HR person and wanted to know the longest I could keep a person and they were clear to me that there would be a limit and then they've got to go and they have to go for 3 months before you can bring in the same person again'.

---

7. If the position being recruited for had previously been a temporary role, is the length of the previous employment taken into consideration in the decision to employ another temporary employee?

'Yes I think it is from my perspective. I don't think I would get sign off for the same position if it was for another temporary worker beyond the 51 weeks'.

Questions would be asked further up the approval chain.



---

8. At the end of the intended period of temporary employment, is the decision to employ a temporary worker reassessed at this time, with the view to either terminate or continue the temporary employment arrangement?

'As a line manager were evaluating as to whether that person is the right person to continue. If we need a person for another 3 months, is that the right person – that would be my thought process'.

'It wouldn't be a formal process where I sit down with the individual and go through what they've done over the last 3 months, Ill already have it in my mind whether I need another temp and is this person the right person'.

'I'll use feedback from the team to make my decision. Although I'll have it in my mind whether I will or won't anyway. Additionally there will be independent feedback from time to time from other managers within the department'.

'Predominately it's my own gut feeling, but I'll always ask for someone else's opinion'.

---

9. If this mechanism exists, in what employment capacity does this person enter into with the organisation? ie. is the temporary position terminated, is the person made a permanent employee, or does the temporary employee continue in a temporary capacity on an on-going basis?

'Very rarely have I gone into a temporary contract thinking this could be a temp to perm. It's a case of going into it know what it is. We've got these peaks and troughs and we need a resource for a period of time, let's find and use that resource.

'If it develops a certain way then it develops, but it's not from the outset'.

If performance is ok and that person is the right person for the role and there is the statistical numbers to justify the position, then the contact could be rolled over.

---

10. Where temporary assignments are on-going in nature (greater than 1 year) is the performance of the temporary employee ever formally assessed? And if so, at what point in time?

Temporary workers don't receive a performance appraisal, so their performance is evaluated by me as line manager on a daily basis. So if I don't think they can do the job then I'd look to replace them.

I don't believe any of the other managers have a formal evaluation or performance appraisal process.

I don't have a case where we have kept a temporary worker longer than 51 weeks.

---

11. If this mechanism exists, is this assessment (both good and bad) ever formally communicated with the temporary employee in terms of making improvements to performance, and for their own personal and professional development?

It's informal. If I've got concerns then I'll always sit down with the individual whether they are permanent or a temporary worker. On the temporary side I'll bring it to their attention a lot quicker.

At the end of a contact I've sat down with all of the workers that are leaving and said thanks for what you've done, I hope it's helped you, it's certainly helped us. Or I'll sit down and say thanks for everything that you've done; I think you need to think about these things next time.

I'll have a chat with them, but I'm not going to put anything in writing. I've been very lucky over the past 4 or 5 years in that the people I've employed have been very good at what they do – enthusiastic, energetic and haven't caused me any problems'.

'Some temporary workers aren't in it for the long term, so they know they can come in and do a good job they may not have the skill set for the long term because they thrive on that short term but you can sometimes see a complacency screen creeping in that over the long term you may not want in a team'.

'I certainly see a peak in performance in temporary workers and some of them keep our permanent members of staff on their toes'.

---

12. Where temporary assignments are on-going in nature (greater than 1 year) are KPI's or additional departmental objectives ever set for temporary employees in addition to normal day to day business requirements?

Don't have situations like this so unable to answer.

However since there is no formal appraisal it would seem unlikely if this was the case.

---

13. When a permanent employee resigns and there is already a balanced contingent of temporary workers within this department, are the performance of temporary workers assessed at this time with the view to making a temporary employee a permanent employee?

Potentially yes. It would very much depend on the person and if they are the right fit for that role. For me it's all about employing the right temporary worker in the first place when you bring in the temp.

To be fair though not all temporary workers want to be permanent. Some come in because all they want is a short term contact and it suits their personal circumstances.

Example I employed a temporary worker many many years ago who was an actress and she wanted to temp during her so called resting periods. Four or five departments wanted her to go permanent but she just kept turning us down'. Unclear if this was within the current organisation.

'If we did look to make a temporary worker permanent then they would have to go through the formal application process – put in a CV be interviewed, and be assessed alongside everyone else that applied'.

'HR will never force or guide me to employ someone. This would always be my call'.

---

14. If a performance appraisal is conducted at this time and a temporary employee is not made permanent, do temporary employees continue to occupy and retain the same temporary position in an on-going capacity?

'No, we'd look to move them on i.e. Terminate the contact at the end of the temporary assignment'.

'Again the temporary worker may be good in that position in a temporary capacity but not have the skills were looking for to take the department forward. In this respect the worker may continue in a temporary capacity that exceeds the initial assignment, but only to cover peaks in volume or until a permanent member of staff can be found. Senior management within the approval process would be made aware of this'.

'If a permanent offer has been made to a temporary member of staff and they don't take it we would need to seek guidance from HR on whether to allow that person to continue in a contracting capacity. We'd sit down with HR and have a discussion to determine what is the best strategy'.

---

15. Are you aware of any UK employment law pertaining to temporary employment?

Not necessarily aware of specific law, however seemed knowledgeable about some obligations or requirements under legislation.

Not aware of the AWD which came into force in October 2011.

---

16. Can you tell me of any obligation required under these laws?

There are a number of factors that we are advised of by HR. One of those is the length of time that a temporary worker obtains certain employment rights are a certain period of time.

Communication re these factors have come from HR. They have provided guidance on it.

Working hours, place of work, responsibilities. Temporary workers can't be signatories, they can't have controlling functions.

Will sit down with HR at the beginning of the recruitment process and HR will say these are the things you need to consider differently if you're considering to employ a temporary worker.

Line manager was not aware of the AWD coming into force in October 2011. Any changes under the legislation were not communicated to him by HR. 'Certainly hasn't been relayed to me'.

After discussing some of the things AWD will mean to the organisation in terms of workers' rights and employer obligations, the line manager said that there are certain things that would not necessarily concern me, but gives me things to think about.

Line manager stated that if additional rights are extended to temporary workers after 12 weeks of employment that this could be a cause for concern in terms of evaluating performance of these workers. Would not want to expose himself to additional risk in this respect.

### **General comments, feedback and possible themes**

Very much needs guidance from HR with respect to obligations under legislation when employing a temporary worker.

Seems to be sufficient approval sign off controls within the approval process to provide an effective mechanism when deciding where to employ a temporary worker.

Main reason for using temporary workers is to cover peaks in operational volumes. More cost effective.

Controls challenging the justification for continuing to use or to roll over a temporary assignment appear to be present. This includes the aggregated time across the temporary position. From senior management within the approval chain rather than HR.

Doesn't appear to be any cases of extendedly using temporary workers beyond the 51 week window. If volumes indicate there is a permanent increase in volume then there appears to be efforts made to either make a temp permanent or source one from the market.

No formal buffer policy however no one appears to have been employed longer than 51 weeks.

No formal appraisal given to temporary workers. Thus the department is complying with current legislation.

Appears to be a preference to make a temporary worker permanent where possible, although skill set and then needs of the department are assessed to determine if a temporary worker is the right fit.

## *Division A – HR Manager*

### 1. Tell me about the organisational process / procedures that human resource management / line management follow when determining whether to employ a temporary or permanent member of staff?

If someone has resigned, or is someone has gone on maternity leave. If someone who's permanent has resigned, we would look to replace that person with another permanent member of staff in a large majority of cases.

'In some cases if a permanent member of staff has resigned the line manager may want to get in a temporary worker if they are reviewing the structure of the department and are trying to determine if there is a better use for that headcount, but still need the day job to be done'.

Temporary workers would generally be used is say someone was off sick for an extended significant period of time, or say of maternity cover.

'Generally I would say maternity leave is the reason why we have the largest majority of temporary workers'.

'Or in the event a project requires an additional resource to implement'.

'Or in a particular area that has in the past been a difficult area to recruit within, we may look to employ a temporary worker because it may be a very niche role'.

Or possibly to up skill permanent employees within other roles and back filling the role that becomes vacant. Trying to manage resources more effectively.

#### Approval process

1. Line Manager
2. Global head of the business area
3. HR Approval Panel

As a general rule HR would be looking to find out why they need the temporary resource, why it can't be covered within the organisation.

'Request for approval tool used. The business partner for the function has to put the information needs to be entered into this system. This would include who the temporary worker is, the name of the person that they are replacing, what the role is, how long they're needed, what's the justification that's provided by the business. A certain number are reviewed. It's prioritised. A certain number are approved by the approval panel to go forward to the COO obtain sign off. At this point further justification may be requested'.

'There is however another approval process if the business line requires a temporary resource for less than a month. In this situation the global head of HR can approve these cases. This is generally because this is a more urgent request. It's more of an immediate crisis type temporary worker'.

In this situation the approval process is

1. Line Manager
2. Global head of the business
3. Global Head of HR

Should a temporary assignment need to be rolled over it still needs to go through the same approval process with the appropriate business justification.

---

2. Do you know if the organisation has any policies stipulating what the proportion of temporary to permanent employees should be for any given department or level of position?

'Not that I'm aware of. We don't have large numbers of temporary workers'.

Another form of temporary worker that the organisation uses is an Industrial Trainee. These are second year undergraduates (sandwich courses) that take a year out of their studies to work for the organisation, and then go back to complete their final year at university. These workers fall outside the formal sign off process however.

'If we didn't utilise Industrial Trainees then there would be an argument that we would need to increase the headcount because they are doing significant jobs'. If we didn't have them then that work would need to be absorbed back into the organisation'.

'Using Industrial trainees is a way of taking away the real low level administration for someone else'.

---

3. If so, can you tell me what business strategy this policy is trying to facilitate / achieve? Examples might include but are not limited to – increased flexibility in consideration to downsizing, outsourcing, offshoring, or to provide internal mobility amongst permanent employees.

Extended sick leave and maternity cover.

'If there is a sensible business strategy i.e. if it is known that that business is going to be changed, closed down, offshored, whatever'. It makes sense to employ a temporary worker, but there is no general policy to have a balance.

---

4. Is the proposed length of a temporary assignment considered in the decision making process to employ a temporary employee?

'Generally everything that a line manager would approach HR to approve would be time bound i.e. have a fixed duration'. In essence would be just temporary.

In situations where cover is required to cover someone who is on maternity leave we look to approve cover for 12 months because that person can take up to 12 months if they require it. The contract that we would generally give would be for 6 months because someone could potentially return to work after this period of time.

For other situations i.e. projects, sick leave, departmental restructuring, approval would be given for the duration of the expected vacancy. So yes duration is taken into consideration when deciding whether to employ a temporary worker.

---

5. If so, what is the maximum period of time designated before that position transfers from being considered a temporary position to a permanent employment position?

'I don't think there is an answer for that because it's really specific to the role and the conditions'.

However in most situations decisions are absolutely time bound such as maternity cover.

Generally a project would determine the duration of any intended assignment.

'People in that particular specialism tend to contract so you may need to have a contractor in whilst you search'. If it's the norm where people with that specialisation contract and they make more than they can permanently then often it's very difficult to find somebody'.

'This might be the only reason why we would have someone continue in a temporary role longer than we really intend to'.

---

6. Does the organisation have a buffer policy used to distinguish the employer employee relationship? i.e. must a temporary employee leave the banks employ at the end of a designated period of time? What is this time period?

I think there is something similar, although you'd need to get that from the temp desk. I think there are guidelines at 46 weeks.

'We have a temp in one of the areas that's been here for 2 or 3 years but that is because, again it was a very specific thing, because there was a lot of maternity cover required in that particular area'.

And of course if someone's been there you don't want that person to leave and to have to train someone else up again. 'You want to keep that person flowing through'. In this situation you can't say let's make that person permanent because she's covering a permanent position.

It's not possible for someone employed as a temporary worker to continue to be employed year on year without someone further up the approval process knowing about it. If that was the case it wouldn't be in the same role it would



be on other possible projects which again need business approval and sign off, and again have a fixed duration or are time bound.

'The risk outweighs the knowledge lost' if we replace one temporary worker for another after a fixed duration if we again need to train that person up to take over a role.

---

7. If the position being recruited for had previously been a temporary role, is the length of the previous employment taken into consideration in the decision to employ another temporary employee?

No. Its dependant on the role and the approval process.

It's banded by what is required for the role, and the approvals you have.

Seems unaware that because of recruitment freezes there may be a requirement for a temporary worker to be employed in a role for an extended duration. Possible for multiple roll over's if a worker needs to be replaced.

---

8. At the end of the intended period of temporary employment, is the decision to employ a temporary worker reassessed at this time, with the view to either terminate or continue the temporary employment arrangement?

Not a formal appraisal. I would hope the line manager would come to me before the end of the initial contract assignment if the performance of a temporary worker is not up to scratch. In which case we would replace them.

Generally the line manager would contact HR to advise they have a temporary worker that isn't performing as required and that they need to replace.

Hesitant on the termination process, if that would be communicated by HR or the temp desk.

Would want to know why the temporary worker is not up to scratch and to ascertain if they had been given direction, or a chance to prove themselves. Wed recommend they work with the temporary worker to start with and if the poor performance continues wed look to get involved with the agency to terminate the employment.

---

9. If this mechanism exists, in what employment capacity does this person enter into with the organisation? i.e. is the temporary position terminated, is the person made a permanent employee, or does the temporary employee continue in a temporary capacity on an on-going basis?

If the role being recruited for was a project role, it's possible that following the conclusion of that project that the temporary worker moves onto another project within the organisation. Same approval process.

It's determined by the length of a project rather than if someone's still here after a year we have to make them permanent or terminate the employment. That never happens.

---

10. Where temporary assignments are on-going in nature (greater than 1 year) is the performance of the temporary employee ever formally assessed? And if so, at what point in time?

Not that I'm aware of. The line managers may do that on their own accord.

I certainly would expect our line managers to have had conversations about how their temporary workers are doing but nothing formal as such with the worker.

The reason why this is not formal is because of legislation. You need to keep that buffer or differentiation between temporary and permanent employees. If you involve them in your internal processes then you are implying that they are an employee of the firm.

Not part of the formal performance appraisal process.

---

11. If this mechanism exists, is this assessment (both good and bad) ever formally communicated with the temporary employee in terms of making improvements to performance, and for their own personal and professional development?

We wouldn't be involved in that type of thing. Again because of the buffer required to distinguish the employment relationship.

If bad performance is every formally communicated it would be via the line manager or via the temporary recruitment desk.

---

12. Where temporary assignments are on-going in nature (greater than 1 year) are KPI's or additional departmental objectives ever set for temporary employees in addition to normal day to day business requirements?

I wouldn't think so for a general temporary worker. They may however do so if the temporary worker is employed within a project role with a defined set of deliverables and objectives to be achieved throughout the next period of employment.

Generally temporary workers are here to do a role, and that's what they're here to do.

---

13. When a permanent employee resigns and there is already a balanced contingent of temporary workers within this department, are the performance

of temporary workers assessed at this time with the view to making a temporary employee a permanent employee?

It depends what the role is and the area where the temporary worker is employed.

'Temporary workers are perfectly able to apply for permanent roles. They can make that application. They are counted as external to the firm, so we would have to exhaust any internal applications from internal members of staff before going externally'.

If there is someone who has the appropriate set of skills and they are a temporary worker within the bank, then that would be something that we would be very keen to look at.

Goes through exactly the same approval process. The hiring manager would make the ultimate decision on who they want to take the position. HR will not instruct who they must employ.

'If we've invested time in a temporary member of staff then we'd rather they were able to stay here if they have the appropriate level of skills'.

---

14. If a performance appraisal is conducted at this time and a temporary employee is not made permanent, do temporary employees continue to occupy and retain the same temporary position in an on-going capacity?

Depends on if the role. It maybe that person is required to fill the position for a particular period of time, but doesn't have the skill set to be offered a permanent position.

The person wouldn't continue to contract for an extended period of time unless there was a very very specific reason – again you may be looking at a very specific niche situation which we couldn't cover, then we may have to do that.

But as a general rule if a temporary worker turns down permanent employment then we would look to utilise the worker as a temporary employee until a permanent member of staff can be found and then the temporary member of staff would leave.

Even if it does take two years to find someone then we should be looking rather than to have someone continuing in a contracting capacity.

Line managers prefer to have permanent members of staff also.

'We are very much a long term organisation, were in it for the long term, that's our business. So we tend to want to build teams on a permanent basis rather than have somebody that could up and leave if they chose to do so'.

---

15. Are you aware of any UK employment law pertaining to temporary employment?

There is quite a lot of legislation. I can't name all the acts.

Agency workers directive (AWD, October 2011).

ACAS website.

Government website will have all legislation concerning temporary workers.

---

## 16. Can you tell me of any obligation required under these laws?

Ensuring that temporary workers terms and conditions are similar or the same as permanent staff. Don't have to give them exactly the same but you have to make sure they're not disadvantaged in anyway.

### **General comments, feedback and possible themes**

Numerous reasons given for why a temporary worker might be employed which supports previous research.

Appears to be a sufficient enough approval hierarchy to act as a sufficient control in the initial approval process.

Same approval process for extensions to contracts. Again appears to be sufficient enough approval hierarchy to act as a sufficient control.

Request for approval tool used.

No business strategy to maintain a balance of temp v permanent positions, however the use of Industrial Trainees may be being used to supplement the need to employ temporary workers.

All temporary contracts on the surface appear to have a fixed duration or are time bound. Therefore temporary roles are treated as temporary roles.

Difficult to say at what point a role changes from being a temporary role into a permanent role. Role and circumstances are all different.

Seems reliant on the approval process to pick up if a temporary role is continually rolled over. Did not get the impression HR would challenge the line manager in the event an assignment is continually rolled over. Not confident that those questions would be asked.

Many examples of temporary workers employed within the company for longer than 1 year, but unlikely to be in the same position. Would be to cover for another role or another project.

If a permanent worker resigned I did not get the impression shed first look to employ a temporary worker if they had the right skills – although she stated it would be in the organisations interest I believe it would be a secondary though from her perspective.

No formal performance appraisal given by HR or the line manager to temporary workers. Clear buffer to ensure legislation obligations are met.

Appears to be knowledgeable re temporary employment law, but didn't give the impression she understood a lot of the obligations under the law. This may however just be because I failed to prompt her.

Got the impression that temporary workers were only ever employed on a temporary basis, however there were exceptions where some workers had been there for more than 2 years. Differing roles however.

## *Division B – Line Manager*

1. Tell me about the organisational process / procedures that human resource management / line management follow when determining whether to employ a temporary or permanent member of staff?

Operations – client on boarding stream.

Because a temporary piece of work that needs to be completed. The piece of work will normally have a limited end.

For example systems migration project work with a definitive start date and a definitive end date.

Sometimes the decision to employ a temporary or permanent worker is based on the notice period of workers. If they need an immediate start then they may look to employ a temp rather than a permanent member of staff.

Initially business approval is sort. Decision is made to determine if that piece of work can be sourced from within the bank, how much it impacts on the existing teams, and then if the impact is too much perhaps look to employ a temp.

Sign off process

1. Line management
2. Head of Operations approval
3. Head of the business
4. Then onto head office for approval.

'The submission to head office would be done via HR. Normally HR would be copied in on the business approval further upstream so they would be informed upfront'.

Additionally the line manager might copy in Hays who are the preferred recruitment agent so that Hays can begin to source candidates prior to approval being signed off.

Decision to employ a temp or a permanent member of staff is normally made by the line manager and head of operations. No real involvement of HR in this process.

---

2. Do you know if the organisation has any policies stipulating what the proportion of temporary to permanent employees should be for any given department or level of position?

Thinks there probably is a policy, but in terms of numbers not sure what it is.

Business strategy is for all our people to be permanent employees if possible.

From a cost point of view it's much better to employ someone on a permanent basis rather than employing temps.

'From a staff retention point of view it's much better for business growth etc. point of view'. It's a benefit hiring permanent employees.

Main driver on the business side is how you want to take the business forward. 'There is a risk I would perceive in hiring temporary members of staff to do permanent roles'.

'From the business side it's twofold: reduction of costs, it's cheaper to have a permanent member of staff, and trying to build a sustainable business unit rather than building a unit of temporary members of staff'.

---

3. If so, can you tell me what business strategy this policy is trying to facilitate / achieve? Examples might include but are not limited to – increased flexibility in consideration to downsizing, outsourcing, offshoring, or to provide internal mobility amongst permanent employees.

---

4. Is the proposed length of a temporary assignment considered in the decision making process to employ a temporary employee?

Not really. It goes down to the nature of the work, and who would be best to perform that work.

Also it depends on business circumstances. If it will be a permanent increase in work say due increases in demand, or perhaps the addition of say a new product, then we would look to hire a permanent member of staff.

If there is a spike in demand that can be foreseen as a temporary spike in demand, or if we are unsure if the demand will last, then we will look to hire a temporary worker.

'Decision is based on whether it is a permanent fixture job, or whether it is a temporary assignment rather than looking at the length, and maybe inherently you look at the length when you do that process'.

---

5. If so, what is the maximum period of time designated before that position transfers from being considered a temporary position to a permanent employment position?

Not aware of any maximum period of time.

I have one temporary member of staff whose been with me on and off on differing projects and working in differing areas, for 2-2.5 years.

6. Does the organisation have a buffer policy used to distinguish the employer employee relationship? i.e. must a temporary employee leave the banks employ at the end of a designated period of time? What is this time period?

'Not that I'm aware, and if there was its not proactively enforced or managed'.

---

7. If the position being recruited for had previously been a temporary role, is the length of the previous employment taken into consideration in the decision to employ another temporary employee?

No. Generally all our temporary assignments are on 3 months rolling contracts.

If you have a temporary contract agreed and signed off, you will have sometime left on that contract, so it would be easier to agree another temporary contract rather than agreeing a permanent contract.

Normally the speed to hire would also come into consideration.

'Everything is a case by case basis'. If it is a permanent piece of work then we will try to employ a permanent person.

'If someone has been there for an extended duration it may be that instead of rolling the contract you look to make them permanent if that was possible'.

---

8. At the end of the intended period of temporary employment, is the decision to employ a temporary worker reassessed at this time, with the view to either terminate or continue the temporary employment arrangement?

Yes – always.

Not a formal appraisal. Probably is subjective. Subjective in a good way rather than a bad way if there is a good way.

Definitely one way.

When we go to renew contracts, we would look at the possibility of hiring someone on a permanent basis if it is a permanent role that the temporary worker is performing.

'As a line manager it takes me a long time to train someone for a particular role. So the last thing I want to do is to let someone go that is performing well or that has good knowledge walk out the door'.

'Will always look at the opportunity of retaining expertise'.

---

9. If this mechanism exists, in what employment capacity does this person enter into with the organisation? i.e. is the temporary position terminated, is the person made a permanent employee, or does the temporary employee continue in a temporary capacity on an on-going basis?



If performance isn't up to scratch it's kind of goodbye and good luck at the end of the temporary assignment'.

Could however be a number of barriers to making a temporary worker permanent. For example, work visas, money, preference to be a temporary worker, headcount freezes.

---

10. Where temporary assignments are on-going in nature (greater than 1 year) is the performance of the temporary employee ever formally assessed? And if so, at what point in time?

'Again no formal process. When you look to extend a contract then naturally you'd look at performance at that point, but there's nothing like a formal performance appraisal process, or objective setting or anything like that'.

---

11. If this mechanism exists, is this assessment (both good and bad) ever formally communicated with the temporary employee in terms of making improvements to performance, and for their own personal and professional development?

If there are issues in how they are performing the role then we would speak to the temporary worker directly. If there were real issues in relation to performance then we'd need a very good reason to still have them in the building to be honest'.

If a temporary assignment needs to be terminated due to poor performance then this is generally communicated to the temporary worker via their recruitment agency.

There is a termination form that is filled out in the event this is required.

Employment agencies never phone and ask the line manager how the temporary worker is performing. Not something as a line manager id be advised to.

---

12. Where temporary assignments are on-going in nature (greater than 1 year) are KPI's or additional departmental objectives ever set for temporary employees in addition to normal day to day business requirements?

No objective setting for temporary workers. They are there to perform a role.

Perhaps might have a half hour discussion in terms of what you want them to achieve, but nothing long term in terms of KPI's or long term goal setting.

---

13. When a permanent employee resigns and there is already a balanced contingent of temporary workers within this department, are the performance

of temporary workers assessed at this time with the view to making a temporary employee a permanent employee?

'Yes. We would quite often look at that. It's about retention of expertise and retention of knowledge. Normally when a permanent member of staff resigns then you lose that, so we would look to fill the role as quickly as possible and the easiest way is to try and get one of your temps to convert to permanent'.

'At the present time we have a high proportion of permanent members of staff'

'Normally an informal process, but I would look to review all temporary worker performance and see which one is the most useful to the organisation – normally based on delivery and knowledge and try to do what can be done to make that person permanent'.

---

14. If a performance appraisal is conducted at this time and a temporary employee is not made permanent, do temporary employees continue to occupy and retain the same temporary position in an on-going capacity?

More than one example of a temporary employee that was approached to see if they wanted to go permanent, but the numbers – salary didn't stack up because he can run wages through a limited company and take off expenses. He travels in from a long way so he would have to be paid a hell of a lot from the organisation to compensate for the loss in pay.

Yes I get asked the questions by HR (normally quarterly since they are 3 month rolling contracts), are you aware how long the individual has been contracting in a temporary capacity, but ultimately it's a business decision if you want to keep the person or you don't. But normally you have to give business justification as to why you want to keep the person in the building and part of that business justification is performance and the other is why they want to remain a temp or why don't they want to be permanent.

'I'm not aware of any hard and fact rules that you have to get rid of this person'.

If your very good at your job and you perform in the organisation, and you're an asset and valuable to the organisation then in circumstances like these it's what's good for the organisation and sometimes what's good for the individual.

'If the overriding factor is actually that we want to make sure we have a permanent headcount of people in seats, then you'll bite the bullet, you'll take the initial pain and terminate that temporary assignment and get in a permanent person and try and built the knowledge of the person up to the knowledge that you lost'.

Strategy would normally be to make the team fully permanent. So I would normally look to replace a permanent member of staff with a permanent head. Initially I would look at the temps that are in the team to see if any would convert.

If they didn't fit the criteria of what we are looking for to take the department or organisation forward then I'd look to go external.

Standard selection rules however apply with all permanent positions. The role must be advertised internally for 2 weeks, and any temporary employee must go through the same interview process. The role may also be open to external candidates.

'If they went through the recruitment process and were rejected, then it wouldn't be a reject and terminated, it would be a reject and you stay in your role as a temp'.

HR are never going to tell you who you have to hire. As line managers it's our jobs to interview and it's our job to pick the person

---

**15. Are you aware of any UK employment law pertaining to temporary employment?**

'Yes – Probably guided by HR on this side and they will roll in with anything we need to be aware of'.

---

**16. Can you tell me of any obligation required under these laws?**

If an temporary worker is employed for a long period of time, they may derive rights equal to that of a permanent member of staff.

Should be a differentiation on how the organisation should treat a temporary member of staff in comparison to a permanent member of staff.

Not allowed to offer formal 1-2-1's (performance appraisals) mentoring, training or coaching, other than on the job training i.e. no future development.

---

**General comments, feedback and possible themes**

Line manager is not necessary familiar with the legislation governing the use of temporary workers, however knowledgeable about obligations under the law.

Line manager admittedly reliant on HR to provide guidance in this respect, however having used temporary resources extensively seemed knowledgeable.

Decision to employ temporary workers seems consistent with previous research; however the length of time to employ someone was also included in the mix.

Line manager appears to be fully aware of the additional cost of hiring a temporary worker. Also aware of the additional benefits that permanent employees offer in terms of stability and taking the business forward.

Clear distinction made by line manager on how temporary employees are treated to comply with current legislation.

Efforts made to make high performing temporary workers permanent wherever possible.

Confirmation from line manager that HR are advising him of the additional risks being taken on when a worker is employed in excess of 1 year.

From managers statement whilst there is a commitment on behalf of the line manager to convert temporary employees to permanent whenever possible, comments made indicate he is aware that not all temporary workers wish to be permanent employees.

### **Comparison between HR and Line Manager – Similarities, Differences, possible themes.**

Both the line manager and HR manager appear to be consistent in their responses in terms of the approval process.

Both would appear to understand their obligations under the approval process.

HR's involvement in the approval process appears on the surface to be robust and offers value in challenging the line at the beginning, or at the roll over stage of an assignment. The right questions appear to be asked with respect to the nature of the role and the definition of the role – temp verses perm.

Controls do appear to exist in terms of challenging the business line with respect to the continue renewal or rolling over of temporary contracts. These risks appear on the surface to have been communicated by HR to the line manager.

Policy to make all workers permanent where possible seems to have been communicated to the business line. HR and the business seem consistent in this strategy.

There seems on the surface to be contradictions in this philosophy when more than one example has been given with temporary workers often employed within the organisation for periods greater than 2 years.

Whilst there might be good business justification for this, on all occasions the extension of assignments are signed off by the COO who has stated roles should be permanent wherever possible. There appears to be a contradiction in strategy here.

Under AWD the extended use of temporary workers opens up the possibility that temporary workers are entitled to performance based bonus payments – raising the question of the cost benefits of their on-going extended use.

On the surface, loss of business knowledge and expertise seems like a logical business justification for retaining high performing temporary workers.

Non comparable wages does not seem like a sound business justification to retain the services of a temporary employee. If each area of the business took this stance organisational performance would be serious impacted.

## *Division B – HR Manager*

### 1. Tell me about the organisational process / procedures that human resource management / line management follow when determining whether to employ a temporary or permanent member of staff?

Starts in the business. Two things drive that decision from a business perspective. Is it an on-going requirement. Lost someone you're looking to replace. It could be an increase in volume within a team and it's going to be permanent increase in volume. New products or additional work functions.

In those the circumstances business opt for a permanent head.

Some areas of the business like to recruit on a temp to permanent basis – particularly relevant in back office functions – 'where the line managers see it as a bit of an informal trial period'.

'Less so when in relation to front office functions where those roles are likely to be filled on a straight forward permanent basis'.

If it's not a permanent on-going requirement, project work, short term spikes in demand on a particular team, or a specific skill requirement for a particular piece of work – will normally be temporary requirements and the business will seek sign off for the period of time that they believe they need that additional resource or particular skill.

Possibly if they are merging two or more systems and they know in the future they won't need to acquire additional headcount, then temporary workers will be sort to cover that interim period.

'Starts with the business line manager who determines what it is that they are looking for'.

'Little bit different dependant on which particular business area you're recruiting for'

Six stage process

1. Business line manger
2. Full sign off from the most senior person in their section in the UK. If operations COO, if front office it would be the head of domestic of the head of international, if in IPS it would be the head of IPS.
3. Approval then needs to be obtained from the UK CEO.
4. Approval then taken through to the relevant HR people outside in head office location such as the HR business partner for the front office, the HR partner for Operations, the HR business partner for IPS who will seek business approval the regional head – Division, IPS, Operations.
5. Global head of HR for division who will give final headcount sign off, which gives approval to go to the market and find someone. Recruitment process would start at this time.

6. Once they've found someone then final sign off obtained on how much they want to pay this person.

Recruitment process is exactly the same when recruiting for a permanent member of staff – no difference.

Different sourcing teams however broken down into Temporary recruitment and permanent recruitment.

Temporary workers are on the balance sheet as a headcount cost and therefore reporting against the relevant business unit cost centre. Only difference is that they are pay rolled via Hays rather than the organisation.

---

2. Do you know if the organisation has any policies stipulating what the proportion of temporary to permanent employees should be for any given department or level of position?

No. The aim is to have permanent people unless there is a very good reason for having a temporary worker, and that reason will change depending on a whole variety of circumstances.

Generally the aim is permanent is the organisations preference unless their aware of a good reason not to.

---

3. If so, can you tell me what business strategy this policy is trying to facilitate / achieve? Examples might include but are not limited to – increased flexibility in consideration to downsizing, outsourcing, offshoring, or to provide internal mobility amongst permanent employees.

Front office tend to use Temporary workers only for maternity cover. The front office environment is focussed on maintaining client relationships – therefore a permanent headcount is normally sort. If for some reason you need another person you probably need another permanent person and not a temporary person.

IPS have tended to use temporary employees where there has been a spike in demand for a particular product, or to ascertain if the spike in demand is temporary and therefore a permanent worker may not be necessary.

Possibly used as a temporary solution whilst they cover the permanent slot.

COO has a stated aim that he doesn't want temporary people in run the bank jobs unless there is a very good reason for it. 'He wants the people who are run the bank operations to be really invested in the organisation and attached to the organisation.

'No one wants to be in a position of bring on a permanent member of staff if it doesn't have a long term future. No one wants to be in the position to have to make someone redundant at say the end of any strategic change or spike in demand'. 'It's pointless and not fair on the individual'.

---

#### 4. Is the proposed length of a temporary assignment considered in the decision making process to employ a temporary employee?

Not a hard and fast rule, however the longevity of service is concerned around the 46 week timeframe.

As a general rule if it's anything below 46 weeks then it would probably be a temporary role, anything beyond the 46 week period and it would probably be a permanent role.

If a temporary assignment is for a full year then it is arguable and the HR manager would be having a conversation with the business in terms of is it a temporary or permanent role. Why do we know it's going to go away over a year.

Normal temporary period being signed off is for 3 months.

Maximum period sign off for a temporary role would be 6 months.

Even on big projects HR haven't tended to sign off on the full length of the project because things do change, deadlines move out, sometimes deadlines move forward, sometimes it means projects are stopped, so tend to sign off on shorter periods and make sure it's being reviewed after that shorter length of employment. This statement is from a business perspective as well as an HR perspective.

Only two occasions where the business has put a request in for approval for a longer period of time than what HR are prepared to sign off on. The business line is normally also seeking approval for shorter periods.

'It's up to the line managers to manage their team and decide what it is that they need – permanent verses temporary worker'.

HR managers that are required to provide sign off have a challenge role, in the event that it didn't make sense what they were hearing. Equally they are the ones that need to take the approvals through the relevant HR chain i.e. Through head office and then ultimately the relevant HR head.

The question is this really a temporary role, or is it a permanent role is never formally asked, but it would normally come out in the course of a normal conversation between HR and the line manager.

---

#### 5. If so, what is the maximum period of time designated before that position transfers from being considered a temporary position to a permanent employment position?

When it starts to get to 9 months after several roll overs, it starts to feel a little more permanent from an HR perspective.



Different scenarios carry different outcomes. Maternity covers are totally different. Very much a case by case. Where it's a peak in demand it would depend on the conversations that HR are having with the business.

As long as all the conversations that HR are having add up that the business needs to continue to analyse and see if the peak is just a peak or not, then HR are happy with that. It's when it continues to be rolled beyond a period where it clearly isn't covering a peak in demand.

There isn't necessary a drop dead date where HR would say it's definitely permanent now. It all depends on conversations that have been had with the business.

It may be that the business lines aren't certain whether the role will be permanent after say a 9 month period. In this case HR would be asking when we will be certain. This is the type of question that is asked in these on-going situations where 3 month contracts are rolled.

Sometimes the response from the line manager is that they still aren't sure or confident in a temporary worker and making that person permanent. If this is the response and they have been employed by the line in excess of 6 months, HR tends not to accept this.

HR doesn't hear this response very often but on occasions they do hear it. Discussions with the line in this situation would be either you swap that person with someone you are confident in, or we start permanent recruitment proceedings and the temporary worker is kept until a suitable candidate is found.

If a temporary role gets extended, and then extended again, I would normally ask the question why isn't this a permanent role' and there are a variety of good reasons that are given in response to that question.

Sometimes the answer is oh yeah your right we should probably be recruiting for a permanent headcount rather than temporary.

'Sometimes it just needs someone to prompt a line manager to think about it'.

So sometimes HR makes a difference by asking the question, sometimes it's already been thought of by line management.

The decision ultimately lies with the business line and not HR. 'They are there to manage their business decisions. HR are not there to tell them how to manage their business decisions. But HR are there to challenge them and make sure they makes sense'.

'If a line manager gives the answer that this is the reason or reasons why we want it to remain temporary and they can get it signed off through their business line, then HR are probably ok with that'.

'Most of the managers realise that temps are more expensive that permanent people'. – this statement however conflicts with the need to probe the line manager in deciding if it is really a temporary or permanent role.

Question wouldn't normally be asked at the first or initial stage when recruiting for a temporary worker because normally the justification of why a role is being recruited for is obvious. Only asked if the role starts prolonging itself.

---

6. Does the organisation have a buffer policy used to distinguish the employer employee relationship? i.e. must a temporary employee leave the banks employ at the end of a designated period of time? What is this time period?

Aware that other organisations have these buffer policies, however this organisation does not. However the organisation looks very closely at 46 weeks.

'The 46 week period is more of a flag to make sure you've thought about it'.

If someone is employed over the 46 week mark then the temporary employment desk would give HR a flag indicating this. HR would then have a discussion with the line manager to ensure they are aware of the increase in risks that you run – is there a good reason why they are extending this particular person when they are getting closer to the year mark.

However not black and white like some organisations. 'The organisation takes the decision very much on a case by case basis'.

Normally buffer policies are trying to prevent temporary workers gaining employee rights and then the unfair dismissal rights that go with it.

---

7. If the position being recruited for had previously been a temporary role, is the length of the previous employment taken into consideration in the decision to employ another temporary employee?

From an HR perspective yes. The time of the previous temporary contract would be taken into consideration.

HR would ask the line manager are you aware that this position has already been a temporary role for a definitive period of time. Normally this is followed by a variety of answers.

If it looks like a permanent role, then HR should be asking the questions.

Normally if a temporary worker leaves halfway through a contract and HR aware of the life span of the project then the role would be filled on a temporary basis taking into consideration the remaining life span of the project.

'Sometimes temporary workers are replaced because they aren't very good'. Still need to go through the sign off process however if the role had previously been a 6 month contract and the temporary worker is replaced after 2 months, then its logical that the role is still a temporary role and needs replacing.

---

8. At the end of the intended period of temporary employment, is the decision to employ a temporary worker reassessed at this time, with the view to either terminate or continue the temporary employment arrangement?

Raises a couple of questions. Do you still need the role on a temporary basis, or do you need the role on a permanent basis?

'If the line manager needs the role on a permanent basis, then the temporary worker is welcome to apply but goes through the same selection process in terms of the interview process, the same as if they were an external candidate'. 'The same fair selection process applies regardless'.

If you want to extend or make a temporary employee permanent 'No formal performance appraisal, but line managers form views on temporary workers as they work for them'.

'There are times where the line manager will not just at the end, but part way through an assignment will form the view that the temp just isn't up to it'. In this situation the termination conversation would be handled by the temp desk and the line manager. HR don't get involved in these conversations at all.

'It's not a formal performance appraisal; it's an informal performance appraisal'.

This is partly to ensure that actions do not impact on temporary worker legislation, and also time constraints from a line manager perspective. 'Yes it's the legislative background, but it's also the practicalities'.

---

9. If this mechanism exists, in what employment capacity does this person enter into with the organisation? i.e. is the temporary position terminated, is the person made a permanent employee, or does the temporary employee continue in a temporary capacity on an on-going basis?

Depends on the role.

If there is a permanent opportunity the temporary worker is welcome to apply for the job. They don't have an automatic right to the job.

If it is still a temporary role and the life span of the project or spike in demand goes beyond the length of assignment, then the assignment is rolled over.

---

10. Where temporary assignments are on-going in nature (greater than 1 year) is the performance of the temporary employee ever formally assessed? And if so, at what point in time?

Temporary workers do not receive a Performance Review.

No formal appraisal is ever completed.

'If it's on-going in nature it should be a permanent role'.

Hypothetically, where there is a specific systems migration project requiring a business analyst or perhaps project manager, the organisation has sometimes used retention tools to retain the worker. I.e. holding back some remuneration and paying at the end of a contract to retain their services. This is however not the norm.

In the event a resource is required on a project for a duration exceeding 1 year then the organisation has a pool of business analysts or project managers that can be moved onto projects. So employing a temporary worker longer than a year would be very rare.

---

11. If this mechanism exists, is this assessment (both good and bad) ever formally communicated with the temporary employee in terms of making improvements to performance, and for their own personal and professional development?

If it was daily feedback and the temporary worker was on site HR would expect those conversations to take place between the temporary worker and the line manager – both good and bad like they would with any of their people. 'This is a standard management conversation and should happen as normal'

In the event a temporary worker is just not up to scratch and the assignment needs to be terminated, then these conversations are communicated by the temp desk and line manager. HR's understanding is that this is a joint conversation, although this is perhaps more of a question for the temp desk.

HR do not get involved in these conversations however.

---

12. Where temporary assignments are on-going in nature (greater than 1 year) are KPI's or additional departmental objectives ever set for temporary employees in addition to normal day to day business requirements?

'Can't really answer, because we don't really have it'

We don't set specific KPI's for temporary people. They know what the job is that they're being asked to do.

Although permanent employees may have additional job requirements above and beyond their normal day to day roles, temporary people are considered temporary and therefore perform the function expected of them.

Normally if a temporary worker was employed for a period greater than a year it would be on project work and we would expect that worker to work entirely on that project.

'We don't have scenarios of this nature very much within this division.'

---

13. When a permanent employee resigns and there is already a balanced contingent of temporary workers within this department, are the performance of temporary workers assessed at this time with the view to making a temporary employee a permanent employee?

Previously answered.

If we had a permanent role available we'd post the permanent role. If those temps wish to apply then those temps apply and we'd assess them through the interview process as with any other external candidate.

'We wouldn't look at the temp pool and say which one of you is the best and say let's give you a job'.

We start off with internal candidates only. Everything is advertised internally for two weeks only. Temporary employees have access to that internal vacancy database.

Sometimes the line manager will have a temporary worker who is a suitable candidate (and they frequently do), sometimes they have more than one candidate, then we probably wouldn't bother going externally to the market. Because we already have a good candidate who we can identify.

If the line manager wants to benchmark temporary candidates, if they're not confident with the temporary workers they have, then we would look to go external, but the temporary workers are still in the mix'.

---

14. If a performance appraisal is conducted at this time and a temporary employee is not made permanent, do temporary employees continue to occupy and retain the same temporary position in an on-going capacity?

If a temporary worker applied for a permanent role and didn't get it, then as long as their temporary role continues and as long as their performance continues to be satisfactory then they would continue in it.

Temporary workers have an assignment that has a particular duration; if a permanent role comes up alongside that then the permanent role has no bearing on that assignment.

If a temporary worker does apply for a permanent role, then there is formal feedback given to the candidate at that time as part of the recruitment process.

'Important to note that this is however not performance appraisal but selection feedback'.

---

15. Are you aware of any UK employment law pertaining to temporary employment?

Standard discrimination laws apply when recruiting either a temporary or permanent worker.

No specific legislation on how you must recruit.

Agency workers directive Oct 2011 – ‘The big thing that has come in recently’.

Precursor to the AWD was ‘the something a rather, something a rather Prevention of less favourable treatment’ Act.

---

## 16. Can you tell me of any obligation required under these laws?

AWD – giving temporary workers access to the same facilities and pay as permanent employees.

Need to be careful that you don’t give temporary workers the same employment rights.

If you give them the same rights as permanent workers you can confer an unfair dismissal employment right on a temporary worker. Equally you can confer redundancy rights.

The organisation already gave temporary employees rights to organisational facilities prior to AWD, such as canteen facilities, etc.

After AWD the organisation offered access to temporary workers to the medical centre. This was the only facility as such that the organisation had to change up to meet the AWD legislation.

When a temporary worker is employed a comparability study has always been done between to ensure a temporary worker is not paid less than a permanent employee.

Prior to the legislation being introduced the organisation paid temporary employees in excess of what would be offered to permanent workers, or they are paid in line with permanent employees.

Don’t see compensation as an issue for the organisation under the new AWD legislation, since obligations under the legislation in this respect were already being met.

The temporary desk will talk with the business and determine what the market rate is for the respective position being recruited for, and also what the internal comparative is for someone in that position.

The legislation has not required organisational change within this department to up wages to meet obligations under the legislation.

Temporary employees don’t get access to internal training courses.

Temporary employees don’t get assistance with enrolment with external training courses.

Employees don’t have a rank in internal systems

Temporary employees will on most occasions attend team meetings because it requires it so that day to day operations can be managed.

It's a delicate balance to tread because you don't want to treat someone badly because they are a temporary worker, and exclude them from something unreasonably, but it is a balance that can be handled fairly sensibly by most line managers.

After a year's employment a permanent employee has unfair dismissal rights.

In the event a temporary worker was to claim for unfair dismissal then subsequent costs would be the responsibility of the business line, however this has never happened previously.

---

### **General comments, feedback and possible themes**

Very knowledgeable with respect to temporary worker legislation – as I would expect.

Very knowledgeable of obligations under this legislation. Able to give numerous examples to this effect.

From discussions it would appear HR are prepared to challenge the line manager to determine if the role really is a temporary role or if it is in fact permanent.

Evidence the HR manager is making the line manager aware of additional risks after a temporary worker has been employed for a period in excess of 1 year.

Numerous reasons given that support previous research as to why the organisation might need or use temporary resources – outsourcing, spikes in volume, maternity cover.

Appears on the surface to be sufficient layers of approval to act as an effective control when recruiting a temporary worker.

Approval via email rather than via software application however. Inconsistent approach within the organisation.

*Division C – Line Manager*

1. Tell me about the organisational process / procedures that human resource management / line management follow when determining whether to employ a temporary or permanent member of staff?

'There's a thought process one goes through'.

'Management would tend to feed down whether we have open permanent headcount, which generally is a NO, or we have approved temporary headcount'.

'On a personal level I don't make a decision if I want to hire temporary over permanent workers, unless it's something like we have a project, its hit a delay, I have to hit the deadline, and a 3 month temp would mitigate the demands of meeting the deadline'.

Approval process starts with the line manager, then I would go to the COO for approval.

'On occasions you can demonstrate why you require an additional permanent headcount, but it just won't get approval for whatever reason, however a temporary resource is able to be approved so you will backfill if you like to mitigate the volumes and risk and that, and then with a view that times will be more favourable and you can convert to perm or identify a permanent resource'.

If we have a headcount freeze it's as near as or equally as impossible to get even get a temp approved. Normally we find that senior management will put a freeze on perm and generally if you jump through an extra couple of hoops you can get temps approved.

'Generally if it's around volumes and risk, then if you demonstrate it in the right way it will speak for itself. It doesn't mean you will get a permanent headcount, but if there is enough risk to quantify why you should be having additional resource then management have always done the right thing'.

---

2. Do you know if the organisation has any policies stipulating what the proportion of temporary to permanent employees should be for any given department or level of position?

'I don't know of a policy if there is one. I would imagine as a hiring manager I should know that. I would expect the temp resourcing desk, and / or HR to give me that guidance'.

In my immediate area there are 15 people of which 2 are temporary.

---

3. If so, can you tell me what business strategy this policy is trying to facilitate / achieve? Examples might include but are not limited to – increased flexibility in



consideration to downsizing, outsourcing, offshoring, or to provide internal mobility amongst permanent employees.

Not answered, but examples previously given when temporary resources might be used such as to mitigate spikes in demand, and project work.

---

4. Is the proposed length of a temporary assignment considered in the decision making process to employ a temporary employee?

'Yes it is actually. When we approve a headcount we tend to put it 6 months with a roll. Sometimes I've seen it's a minimum of 3 months, but I expect it to be rolled. In my experience I've never done one for less than 3 months'.

'It's either 3 or 6 months rolls, or with the view to take them as long as you can'.

Depends on if there is headcount to employ a permanent member of staff. Whilst a person may continue in a temporary capacity for an extended period of time (in excess of 10 months), when they are first employed there isn't the headcount approval to offer a permanent position.

---

5. If so, what is the maximum period of time designated before that position transfers from being considered a temporary position to a permanent employment position?

Can't really answer since often bound by headcount restrictions for permanent workers, or headcount freezes. Approval is however only initially obtained for 3 or 6 month periods.

---

6. Does the organisation have a buffer policy used to distinguish the employer employee relationship? i.e. must a temporary employee leave the banks employ at the end of a designated period of time? What is this time period?

As I'm aware no. Signs I've seen and people I've spoken to definitely seem to have been on the platform for longer than 50 weeks.

I'm not aware of one, if they've got one it would be more than 50 weeks within operations. I've spoken to my peer group and they've had people longer.

A lot of it depends – management (COO) who manage headcount perm verses temp, they look at that ratio, and a temps operated within a team and its 2 years, there's a very good business case to say what's that temp doing. They come in for a specific reason rather than to just plug a gap – Are we under staffed.

---

7. If the position being recruited for had previously been a temporary role, is the length of the previous employment taken into consideration in the decision to employ another temporary employee?

Generally not no. I tend to almost; my view is it wipes the slate clean and then the new hire'.

HR doesn't really give guidance on this from what I've seen.

---

8. At the end of the intended period of temporary employment, is the decision to employ a temporary worker reassessed at this time, with the view to either terminate or continue the temporary employment arrangement?

'It's more of an on-going thing. The decision to extend or roll would be made before the end of the intended assignment. The first 3 months is however probably harder to judge their performance as an individual, but it wouldn't be left to the last week the intended assignment'.

As a manager its continuously on-going - you assess your staff be it temp or perm and if you're doing it right you should be planning ahead of your resourcing requirements. 'So it would be more of a continual review, rather than a last minute at the end'.

One sided appraisal. I would make that judgement myself; it wouldn't be a sit down and give a review to the temp worker.

'Sometimes during the yearend review I've seen managers sit down with their temp resources just for a chat and to see how things are going, but nothing formal'.

'It would definitely be part of the thought process to make a temp permanent if I had the headcount approval. So yes it would be considered'.

'Not necessary looking to make all temporary workers permanent where possible. However I think we'd rather be sitting on perm than temp headcount'. This way you can drive development, improvements and all that rather than with a temporary resource'.

---

9. If this mechanism exists, in what employment capacity does this person enter into with the organisation? ie. is the temporary position terminated, is the person made a permanent employee, or does the temporary employee continue in a temporary capacity on an on-going basis?

Continues in the temporary role. Answered on one or other questions.

---

10. Where temporary assignments are on-going in nature (greater than 1 year) is the performance of the temporary employee ever formally assessed? And if so, at what point in time?

Can't really answer this question because I don't have anyone in current roles where they have been employed greater than 1 year.

'Guidance from HR has been that you treat permanent and temporary resources very differently'. There's always been strict guidelines from HR in my experience so we would treat them the same as we've treated them the previous 12 months.

'Temporary workers would definitely be included in team meetings as a member of the team. It's just that certain things such as reviews performance and perm resource regular pieces they are excluded from'.

---

11. If this mechanism exists, is this assessment (both good and bad) ever formally communicated with the temporary employee in terms of making improvements to performance, and for their own personal and professional development?

If any feedback is given to a temporary resource, either good or bad, it would definitely be on an informal level, but I will give constructive criticism – be it good or bad – but it's nothing like we have systemic driven review process or anything like that.

---

12. Where temporary assignments are on-going in nature (greater than 1 year) are KPI's or additional departmental objectives ever set for temporary employees in addition to normal day to day business requirements?

As a rule my thought process would be that I would look at my temporary worker population and see if one of those workers is appropriate. If there was an ideal match then that would generally become my priority. If there were any doubts on that – and I'd have to be very confident in my view of that temporary individual, I would then go external just to see what's coming through and perhaps get two or three external candidates as a comparison, knowing that I have a preference on the temp'. I would engage with HR at this point in time.

'Definite though process would be to look in house before going to the market'.

'If someone left and there wasn't headcount approval to replace that permanent headcount, I'd first fight to get a replacement for that headcount, and if I don't then my next option would be to seek approval for a temp'.

---

13. When a permanent employee resigns and there is already a balanced contingent of temporary workers within this department, are the performance of temporary workers assessed at this time with the view to making a temporary employee a permanent employee?

'Inside 3 months you can tell the depth of someone – generally, depending on the function that they are doing. Inside 6 months you'll know if you have the opportunity whether you'll want to make them permanent'.

'Generally I have tended to roll people almost to the end of their intended contact – so you're talking 50 weeks plus before conversion from temp to permanent'.

---

14. If a performance appraisal is conducted at this time and a temporary employee is not made permanent, do temporary employees continue to occupy and retain the same temporary position in an on-going capacity?

Temporary workers would continue as is in their current assignments. Contracts aren't terminated because those roles were still serving a purpose, a decision was just made that they didn't fit the needs or the requirements to fill the permanent role, but if they are still performing in the task and the role that they are performing in is still required I would see that as a constant.

It depends on the situation, it could just be that the particular role that's become available that the temporary worker just isn't suited to it, or it could be that they are doing a great job in the role they are employed, and if the right role came up then we would still consider them for it.

'My view on them wouldn't be negative because they didn't necessary meet a particular purpose or requirement – I mean everyone got a slightly different skill set and they all fit in at different places'.

---

15. Are you aware of any UK employment law pertaining to temporary employment?

No.

---

16. Can you tell me of any obligation required under these laws?

'But I am aware that if a temporary worker works longer than 51 weeks then it makes the employer more liable or gives the worker more rights. I suppose it depends on an employer's interpretation of that legal framework how strong they impose that rule'.

### **General comments, feedback and possible themes**

Very limited knowledge of the legal framework around temporary workers. Completely reliant on HR to provide guidance with respect to the employment of temporary workers.

Evidence that HR have provided guidance in this respect however.

Evidence and examples of some temporary workers being with the organisation for more than 2 years. Unclear if these workers are continuing in the same role or are performing a number of differing roles.

Sign off process appears to be top down where the line manager doesn't necessarily want a temporary worker, but can't obtain permanent headcount.

It would appear that if the volume of work is there and no permanent headcount can be obtained, that the line management will abuse the roll over duration wherever possible - 'It's either 3 or 6 months rolls, or with the view to take them as long as you can'.

Line manager significantly impacted by permanent headcount restrictions.

No control to prevent on-going temporary assignments within a given role for extended periods of time. Possible the same role is temporary in excess of two years. However, headcount restrictions may prevent creating a permanent position.

Whilst HR might give guidance on risks associated with employing a single temporary worker in excess of 51 weeks, there is no evidence that HR are monitoring or controlling the ultimate length of temporary roles or positions within a department.

No formal performance appraisals of temporary workers which meets legislative obligations. Evidence that HR has given guidance in this respect.

Preference by line manager to employ permanent workers if he had the head count approval. This way you can drive development, improvements etc. which you can't with a temporary resource.

It would appear there is a preference to make a temp permanent rather than look to the market whenever possible.

However if it is known that a temporary worker is a strong candidate to go permanent, then no control to prevent assignments from being rolled over appears to exist. If HR are doing their job they should be challenging each roll over. Unclear if HR are involved in the roll over process however assuming that the process is consistent with other research it would appear they are not challenging, or permanent headcount approval can't be obtained.

Failing to make a temporary worker permanent when a permanent member of staff resigns is not necessarily perceived in a bad light. The temp worker might be doing a very good job, but might not necessarily have the skills to take the department forward.

*Division C – HR Manager*

1. Tell me about the organisational process / procedures that human resource management / line management follow when determining whether to employ a temporary or permanent member of staff?

Once the line manager has decided they want a temporary resource, they go through the business management team.

Business management team would in turn raise a request through a specific system that they have for this.

Business manager would then send this through several layers of approval, including

1. Line manager,
2. Business manager area head,
3. Usually up to functional head,
4. Sometimes global functional head depending on the level of the temp,

And then once it is fully approved it will get sent to the HR temp desk who will then start the sourcing process and work with the line manager to find the appropriate temp.

If the position is for a new temp position there is no approval given by HR managers. The approval simply goes to the temp desk to start the sourcing process.

If the position is a renewal or a rollover of an existing contract then the HR desk will be involved in the approval process.

---

2. Do you know if the organisation has any policies stipulating what the proportion of temporary to permanent employees should be for any given department or level of position?

No proportion or percentage. But there are target headcounts for permanent verses temporary employees.

If there was a situation where the business was looking at a head count reduction exercise, then the division would look at temps and permanent employees individually rather than as a whole.

---

3. If so, can you tell me what business strategy this policy is trying to facilitate / achieve? Examples might include but are not limited to – increased flexibility in consideration to downsizing, outsourcing, offshoring, or to provide internal mobility amongst permanent employees.

Usually done from budgeting, so the business will start off with a target head count at the beginning of the year, and where they want to end up at the end of the year.

That's normally adjusted up or down depending on where the markets are going, the different conditions. They look it from a top down, from the bottom up it terms of what are the needs of the business, be that on a permanent or temporary basis.

Examples of when temporary workers might be sourced include when offshoring a department is planned, spikes in demand for a service or product. At any time where the headcount will drop off after that point.

---

#### 4. Is the proposed length of a temporary assignment considered in the decision making process to employ a temporary employee?

Usually temporary contacts are looked at between 3 month to 6 months, and up to a year – depending on the nature of the product. That would be signed off on up front; however we do have people that extend on beyond that, either because they need to continue on with that role, the projects taken longer than anticipated.

'We look to employ temps on quite a short term basis initially'.

'Given that it is a temporary role we should really be having them any longer than that'.

Anything where a temporary worker is employed longer than a year would be looked at as an exception, and would probably require a higher level of approval than normal. HR are involved in the sign off process for all roll over assignments.

We do have some people who have been employed for quite a long time. The point that its looked at in a little more detail is when they get to a years' service.

HR will engage with the line managers at 1 years' service and advise them that temporary workers may potentially have additional rights at this point. Managers would however make the ultimately decision whether to continue to employ the temporary worker beyond this 1 year period.

---

#### 5. If so, what is the maximum period of time designated before that position transfers from being considered a temporary position to a permanent employment position?

No.

'If they are employed by the organisation through a third party they will always be considered a temp. We have to try to keep the distinction quite clear. Because if we start treating them like an employee then they could potentially

claim that they are a direct employee of the bank and therefore try to claim that employment relationship with the organisation’.

‘The challenge that most managers would say that they would love to make it a permanent role but they don’t have the headcount approval’.

A lot of managers who have got temporary workers in place that have quite a long period of service say they would love to have them as a permanent employee’ but headcount approval prevents this.

You also have a flip side in that not all temporary workers want to be permanent because they get paid quite well as a temporary employee, so whilst there may be a permanent role they don’t want to take it because it would be detrimental to their finances.

‘In situations like the above these roles are just extended on an on-going basis and the temporary worker would just be considered a long term temp’.

---

6. Does the organisation have a buffer policy used to distinguish the employer employee relationship? i.e. must a temporary employee leave the banks employ at the end of a designated period of time? What is this time period?

No.

‘We do have people that have been here for longer than 1 year, but it’s just the flag that there is the additional risk and that managers must acknowledge that risk and be prepared to take that on’.

---

7. If the position being recruited for had previously been a temporary role, is the length of the previous employment taken into consideration in the decision to employ another temporary employee?

No. The business line would look at what requirements they have going forward. They are quite forward facing.

‘They might look at it that they’ve had someone in that role for a year, but do they actually need somebody in that role or would it be better to use that headcount elsewhere within the team or perhaps on a project and have it as a 3 month contract somewhere else’.

‘So they use the headcount in whichever way is most effective for the business’.

‘It maybe that the worlds changing and they have to continually adapt to that environment’.

---

8. At the end of the intended period of temporary employment, is the decision to employ a temporary worker reassessed at this time, with the view to either terminate or continue the temporary employment arrangement?



'It's really up to the manager. I'm not aware of any formal process to assess the performance of a temporary employee, however that maybe perhaps something to check with the temp desk'.

Temporary workers are not included in the performance measurement cycle so they're not treated as a permanent employee. They don't go through the formal appraisal process.

At the end of the temporary assignment the manager would assess whether they think whether they want to keep that individual or whether to change the individual doing that job, or whether they don't need that position any more.

Not aware of a formal system or a formal structure, it's just the individual line manager using their judgement on whether they want that person to carry on or not.

---

9. If this mechanism exists, in what employment capacity does this person enter into with the organisation? i.e. is the temporary position terminated, is the person made a permanent employee, or does the temporary employee continue in a temporary capacity on an on-going basis?

---

10. Where temporary assignments are on-going in nature (greater than 1 year) is the performance of the temporary employee ever formally assessed? And if so, at what point in time?

No. Never formally assessed. The line manager uses their own judgement to assess whether that individual is right for the role and on an on-going basis.

---

11. If this mechanism exists, is this assessment (both good and bad) ever formally communicated with the temporary employee in terms of making improvements to performance, and for their own personal and professional development?

Any feedback should really go through the agency from which the temporary worker is employed. It shouldn't be the line manager themselves delivering the message. It should be delivered to the temp desk, who would then deliver it though the agency, who will deliver it to the temporary worker.

Comes back to the employment relationship. If the line manager starts managing the performance of a temporary worker you have to be careful that you're not inferring an employment relationship there.

If its minor things, then it's fine or the manager to have those initial conversation, but if there's any serious performance issues and they're looking to terminate the assignment, then it should be through the agency.

Any day to day overseeing of a temporary workers work is going to be down to the line manager.

---

12. Where temporary assignments are on-going in nature (greater than 1 year) are KPI's or additional departmental objectives ever set for temporary employees in addition to normal day to day business requirements?

Not that I'm aware of.

Temporary workers don't have objectives set by the organisation.

Nothing like what permanent employees would have in say an agreed set of objectives for the year.

'They may have a set of objectives in relation to the tasks they're employed to perform, but it's not going to be the same level of performance objectives a permanent employee would have in terms of their development and training and long term goals and things like that'.

---

13. When a permanent employee resigns and there is already a balanced contingent of temporary workers within this department, are the performance of temporary workers assessed at this time with the view to making a temporary employee a permanent employee?

We do have quite a lot of people that go from temp to perm.

All based on if there is headcount approval.

Role would still need to be advertised internally, but the temporary workers are welcome to apply.

Temporary workers are a known quantity so it means that we know they can perform the job and they need less training. So it's an advantage to hirer that worker on a permanent basis.

If they have been with the organisation for a significant period of time as a temp then the recruitment fees are lower as well rather than going externally and hiring through an agency. So there are quite a lot of advantages to doing that.

If that is an option then it is something that line managers will think about quite carefully and do quite often favour that option.

Although a permanent employee might resign, it's not necessarily a case of replacing that headcount with another worker. In an environment where the organisation is constantly looking to reduce costs there's quite a lot of approval that we need to get a permanent headcount signed off. The manager would have to demonstrate to the relevant budget holder why they needed a permanent person in that position. The question asked is 'Is there a genuine role there'.

Usually a permanent employee can be cheaper than a temp so if the permanent headcount is available then it would be an advantage to put them into a permanent position; however it's not always that straight forward.

Very much driven by the budgets and headcount we have available. Especially at the moment.

---

**14. If a performance appraisal is conducted at this time and a temporary employee is not made permanent, do temporary employees continue to occupy and retain the same temporary position in an on-going capacity?**

It maybe that the temporary resources that they have aren't a right fit.

If they have a limited skill set and were looking for someone who's going to grow and change, and we don't think they have the capabilities then we may look to recruit someone with a slightly different skill set and keep the temporary positions as they are.

In these situations the temporary worker would continue in the current assignment as a temporary employee. In essence they are fit for performing that role but only as a temporary worker.

---

**15. Are you aware of any UK employment law pertaining to temporary employment?**

Yes.

Agency Workers Directive (AWD) Oct 2011 – biggest piece of legislation.

EU legislation around the employment of temporary workers

'Quite a lot of case Law around temps and whether it puts off improving employment relations and that kind of thing'.

EU Legislation – Possibly called Agency Workers Regulations, but not sure.

CIPD website –HR website. Quite a lot of information on there. Explains all the regulations that recently came in.

---

**16. Can you tell me of any obligation required under these laws?**

AWD was quite a big change in terms of employer obligations.

It gave temporary workers the right to the same employment conditions as permanent employees.

Requirement to ensure temporary workers are paid the same equivalent salary as a permanent worker.

Do they have the same employment conditions as a permanent employees. For example same working hours, same facilities offered to permanent employees.

Access to the company doctor. Can't exclude them from those policies because they have the same employment conditions.

'Don't necessarily have the same rights as they are not an employee, but they do have to have the same conditions'.

'New legislation hasn't altered the industries reasoning when determining to employ a temporary worker since temps are already prior to legislation paid quite well as it is. Ultimately it hasn't had an impact on the financial services industry as it might have on other industries where workers aren't necessarily paid on equal terms.

'The organisation did some analysis on this to determine if it could have been a problem, however it was deemed that the impact would be minimal or insignificant since remuneration and wages would not need to be modified in any way'.

Temporary workers can claim additional rights after 52 weeks service. Temporary workers may be able to claim unfair dismissal after this period of time.

'It means there's just that extra element of risk after that point'

### **General comments, feedback and possible themes**

HR are not involved in the initial approval process when a temporary employee is first sourced. Differs to other areas within the bank.

With no HR approval at this stage it is difficult to quantify if the length of temporary assignment is taken into consideration in the decision making process when deciding whether to employ a temporary worker.

Approval process managed via software application.

Sufficient hierarchy of approval to provide basic control function.

HR joining the approval process upon roll over of assignment provides an added layer of control.

Business strategy is constantly changing to adapt to changing market forces. Temporary resources appear to be used to meet changing business requirements.

Reasons for using temporary workers include when looking to reduce headcount, when offshoring a department, to cover spikes in demand for a service or product, or any other time when headcount will drop off after a known time.

Aim is to employ temporary workers for a short period of time – generally on 3 to 6 month contracts. Anything longer that this would be considered an exception to the rule rather than the norm.

Seemed extremely knowledgeable in relation to the legislation surrounding temporary employment.

Seemed extremely knowledgeable with respect to obligations required under the law and current legislation.

Whilst she seemed aware that temporary workers cost more and was of the opinion that since they are temporary roles and that the worker shouldn't be with the organisation any longer than that, gave a number of examples where temps were employed longer than a year.

Also made a comment which gave the impression that on-going use of temps was prevalent i.e. 'You also have a flip side in that not all temporary workers want to be permanent because they get paid quite well as a temporary employee, so whilst there may be a permanent role they don't want to take it because it would be detrimental to their finances'.

Good additional control to inform line managers of the additional risks in employing a temporary worker for a period longer than 1 year.

Concerns with the on-going use of temps if that worker remains in the same role, but could be beneficial if that worker is used in numerous roles or projects.

Evidence of temporary roles being used as a probation period effectively interviewing a temporary worker for a permanent position. Restraints due to headcount approval however.

Under new legislation potentially may have to pay temporary workers performance bonus if employed for longer than 1 year. Important to continue distinction between temporary and permanent positions. Evidence the organisation clear boundaries.

## *Temp Desk Interview Responses*

### 1. Tell me about the organisational process / procedures that human resource management / line management follow when determining whether to employ a temporary or permanent member of staff?

The temp desk is broken down into various lines. The temp desk is only engaged when approvals to employ a temporary worker have been obtained.

The temp desk will receive a copy of the job specification and requirements through from line manager.

1st step is to receive the approvals they have in place.

There are different stages or levels of approval for different roles and divisions.

Need to make sure approval chain is there before proceeding any further.

In IT system approval is used to track budgets for temp hires so that budget considerations remain central.

In Division B - senior members of staff authorise the role via email only.

The process begins when temp desk receives a call from HR stating role has been approved and requesting temp desk to start sourcing for the role.

Temp desks responsibility is to look through the job description and make sure there is no ageism, sexism, or misleading information.

Temp desks responsibility is to liaise between the line manager and the respective recruitment agencies sourcing the temporary worker, manage the interview process, set up interviews etc.

When it goes to offer stage - Make sure all the approvals are in place once again, making sure the line manager knows what offer he wants to make to the candidate.

Liaise with the line manager in terms of acceptance, or if the candidate wants more money.

The temp desk is also responsible for ensuring background checks, and the induction process is performed prior to the worker starting work at the organisation.

Operations temporary roles have the most set of approvals in place. 1 x headcount approval, 1 x budget approval.

For IT temporary roles just one set of approval is required. 1 x budget approval but this goes right to the top of senior management.

Approval for each role is however very different.

Division A / Division B – No systems. More email approval from the head of the area, chief of staff saying it's ok to hire.

When role comes through – job requisition form is sent to the line manager, requesting information such as who is the line manager, what unit will the person be employed in, what the cost centre of that unit is, for how long is the role is intended, and how much they are to be paid.

If the line manager doesn't fill it out then the temp desk will engage with the line manager and pose these questions to them and manually record the responses.

---

2. Do you know if the organisation has any policies stipulating what the proportion of temporary to permanent employees should be for any given department or level of position?

No.

---

3. If so, can you tell me what business strategy this policy is trying to facilitate / achieve? Examples might include but are not limited to – increased flexibility in consideration to downsizing, outsourcing, offshoring, or to provide internal mobility amongst permanent employees.

Not Applicable

---

4. Is the proposed length of a temporary assignment considered in the decision making process to employ a temporary employee?

Not Applicable.

---

5. If so, what is the maximum period of time designated before that position transfers from being considered a temporary position to a permanent employment position?

Not Applicable.

---

6. Does the organisation have a buffer policy used to distinguish the employer employee relationship? ie. must a temporary employee leave the banks employ at the end of a designated period of time? What is this time period?

No.

---

7. If the position being recruited for had previously been a temporary role, is the length of the previous employment taken into consideration in the decision to employ another temporary employee?

Not Applicable.

---

8. At the end of the intended period of temporary employment, is the decision to employ a temporary worker reassessed at this time, with the view to either terminate or continue the temporary employment arrangement?

Question for the line manager – Not Applicable.

---

9. If this mechanism exists, in what employment capacity does this person enter into with the organisation? ie. is the temporary position terminated, is the person made a permanent employee, or does the temporary employee continue in a temporary capacity on an on-going basis?

Not Applicable.

---

10. Where temporary assignments are on-going in nature (greater than 1 year) is the performance of the temporary employee ever formally assessed? And if so, at what point in time?

Question for line manager – Not Applicable.

---

11. If this mechanism exists, is this assessment (both good and bad) ever formally communicated with the temporary employee in terms of making improvements to performance, and for their own personal and professional development?

Not Applicable.

---

12. Where temporary assignments are on-going in nature (greater than 1 year) are KPI's or additional departmental objectives ever set for temporary employees in addition to normal day to day business requirements?

Question for the line manager – Not applicable.

---

13. When a permanent employee resigns and there is already a balanced contingent of temporary workers within this department, are the performance of temporary workers assessed at this time with the view to making a temporary employee a permanent employee?

Not Applicable.

---



14. If a performance appraisal is conducted at this time and a temporary employee is not made permanent, do temporary employees continue to occupy and retain the same temporary position in an on-going capacity?

Not Applicable.

---

15. Are you aware of any UK employment law pertaining to temporary employment?

AWR Oct 2011 Agency worker regulations. Governs benefits workers are entitled.

---

16. Can you tell me of any obligation required under these laws?

Making sure agency workers are on the same equivalent pay levels as permanent employees. In most cases they are paid well above market rates, 'certainly not below' market rates.

'Absolutely' aware of Obligations under the law i.e.

Daily rates are aligned with the organisations employees

Access to occupational nurse

Access to day care for children

Assistance to get into work - travel

Obligation to ensure that anything that should be given to temporary workers is investigated, and offered.

Bonuses – obligation to keep up to date with each area. Bonuses are split between Performance based and individual base. Applicable for agency workers if its performance based and agency workers are entitled to a share of the bonus.

Anything after 46 weeks a temporary workers is entitled to additional benefits and protection under the law. Whilst the bank does not have a 46 week tenure rule additional checks are in place to ensure management are aware of the additional risks after this period of time.

1st instinct is to terminate the employment at this time; however this doesn't always work as people have been with the organisation for more than 2 years as temps.

The temp desk takes the step of transferring the temporary worker across from the temporary workers agencies to direct parolees for Hays because if they are with Hays then they can manage expectations a bit better than an agency can.

No employment claims so far. 'These things can happen' however so the temp desk makes the business aware of the additional risks associated with employing a temporary worker in excess of 46 weeks.

Additional CRM approval required from Director managers within the respective employment area that sit within HR if a.

Any extensions have to have approval by HR. Again the same level of approval is required in terms of sign off from the business area head, line manager, etc. Temp desk will then ask HR if they are aware how long the person has been employed in the bank before they go on and approve the extension. It becomes a business decision to continue the employment if rollover is granted in excess of 46 weeks.

Normal rollovers are at 3 month intervals in operations, 6 months in IT

One division – 'generally don't keep temps for longer than a year'. Efforts are made to convert temps to perm.

Another division in contrast is 'pretty flexible and don't really monitor conversion of temps to perms as closely as the other areas within the bank'.

Temp desk will only be contacted if the Line manager wishes to terminate the employment. No performance appraisals performed.

### **General comments, feedback and possible themes**

Temp Desk manager has knowledge of the latest AWR legislation and is highly aware of obligations faced by the organisation under this legislation. Was able to give numerous examples to this effect.

No consistency in the approval process across the bank. Some require two systems approval, whilst others require one system approval, or are reliant on email chain approval only.

Some areas require additional layers of approval, whilst others are less stringent.

Appropriate controls are in place to prevent the temp desk engaging with the market without formal approval from both HR and senior and line manager levels.

No buffer policies are enforced by the organisation however the temp desk is aware of additional temporary worker benefits after 12 months of employment.

There appears to be inconsistency across divisions with respect to the on-going use of temps. Division A and Division B rarely engage in their use for more than 1 year, whilst another division is less rigid.

Additional layer of control added where a contract is extended in excess of the 46 week window, with the temp desk asking HR if they are aware the worker has been employed for an extended duration. Sign off required.

Examples of temps being employed in excess of 2 years as temporary worker.

Inconsistencies in terms of contract duration or renewal mechanisms.  
Operations 3 months, IT 6 Months.

Whilst the temp desk is a party within the triangular temporary employment relationship within the bank, they are a reactive party offering limited control function.