

# Agents of Delivery

## managing agency workers

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# Introduction

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Contingent workers<sup>1</sup> of a variety of types have played a key part in the UK economy for many years. These include temporaries (both short-term and interims employed for longer), those on fixed-term contracts (employed for a limited period or specific task), seasonal or casual labour hired for short periods, self-employed consultants or freelancers and those workers supplied by agencies. Contingent workers are to be found both in professional jobs (doctors, nurses, teachers, etc.) and the more traditional secretarial/clerical, security, agricultural and hospitality areas. About one-third of all temporary employment is now accounted for in the higher skill occupations (Slater, 2003). For their part, employees might choose temporary work because of lifestyle preferences (mixing employment and travel) or as a means of maximising their income (IT staff have been known to bid up their work!). Some people, by contrast, have little choice but to accept any job that is on offer.

The prediction in the mid '90s, when the idea of a flexible labour market was at its peak, was that contingent workers would push aside 'permanents' as movement in and out jobs grew apace. Moreover, research had suggested that the incidence of temporary working would rise with an economic upswing. Some European research suggested that for each one per cent gain in GDP, there would be a four to five per cent increase in the number of agency workers (Bakkenist, 1998). The logic was that greater economic activity meant that organisations would use more temporary workers, especially where there was any uncertainty about the extent and length of any business improvement. The latter point was borne out by the evidence that those organisations where business demand is very uncertain tend to use a higher proportion of temporary workers (Atkinson et al., 1996).

In fact, these predictions have turned out to be wrong. Despite improved economic performance, the proportion of the UK workforce in temporary employment has reduced somewhat over the past ten years and now stands at around five per cent of employees. The most common form of temporary working is fixed-term or fixed-task contracts, accounting for around half of all temporary work. Agency staff represent 19 per cent – a much higher proportion than in 1995 – and the reason for accepting temporary employment has shifted. There has been a decline in the proportion of people taking up 'involuntary' temporary working, ie those employed in temporary work because they were unable to find a permanent job, from around 45 per cent to around 26 per cent of temporary workers. The proportion that claims not to want a permanent job is now at about a quarter of all temporary workers.

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<sup>1</sup> The US Bureau of Labor Statistics defined contingent work as 'any job in which an individual does not have an explicit or implicit contract for long-term employment' (quoted in Polivka, 1996).

The pattern of job tenure is more complex, reflecting changes in the composition of the workforce (eg the increase in female and part-time employment) as much as in economic activity or employee preference. Median job tenure fell through the second half of the 1970s and 1980s, but by spring 1996 median tenure had recovered to stand at just over five years. By 2001, it had dropped back again to four years. The fall is most marked among older workers and less skilled men.

Nonetheless, temporary workers are an important, if diverse, group. Especially within the public sector, for certain professional occupations, temporary work is increasingly significant (Conley, 2002). More generally, contingent workers have warranted much attention as the legal position regarding their use has become more complex. Agency staff in particular present specific challenges as they are employed by someone else, yet they may be used in exactly the same way as the organisation's own staff. They may differ only through the absence of a contractual tie. This distinction may be lost on managers, keen to get the job done. And the closer agency staff get treated like the organisation's own employees, the greater the likelihood that they will legally change their status to employed.

Given the issues in managing them, why do organisations use contingent workers? The simple answer is for reasons of numerical flexibility (Reilly, 2000). Those employed on a temporary or fixed-term contract can be brought in for whatever task or period of time suits, and dismissed equally easily and cheaply if the organisation needs to downsize quickly. Using an agency gives flexibility because it is the agency that is responsible for managing the consequences of change.

Some organisations' strategy is one of 'spot' contracting, managing the hiring and firing themselves to meet business demand. Other organisations opt for the long-term transfer of resourcing responsibility to an agency supplier. The majority of organisations are likely to avoid either extreme: they will combine agency temps with their own short-term employees.

Against this background, this paper will concentrate on the particular issues faced in using agency workers. It will examine:

- developing a successful relationship with a contractor or supplier
- staying the right side of the law
- motivating temporary workers.

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## Relationship with an agency

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The starting place for the successful use of agency workers is to develop a good set of arrangements with the supplier of these staff. This begins with careful selection of the agency to ensure a good fit between client needs and the supplier's offer. Thereafter, employers should take time to maintain frequent communication with the agency, not just in terms of labour requirements, but also in providing information about any changes to the employer's business activities, organisation or types of work sought. This should help in getting an accurate specification of what the temporaries must have in terms of experience, qualifications, skills, etc. By specifying the right type of candidate in the first place, the employer is much more likely to be satisfied with the performance of that temp and s/he is likely to feel much more satisfied in carrying out the work. However, this must be a two-way process. Employers frequently say that agencies are unable or unwilling to respond to the information given on job specifications and use it to select candidates for posts. Employers also complain that agencies fail to brief temps adequately about the organisation or the job.

Management of the service contract is vital too. As Neil Rankin (2004) points out, the method of assessment of the agency's performance should be determined in advance. The sort of metrics used may well focus on the extent to which supply matches demand but more in a quantitative than qualitative manner.

As with outsourcing, agencies are keen to develop partnership deals with clients (Forde, 2001) so that they establish a central role in the client's resourcing operation. They can encourage such a relationship through offering an 'individualised' service, providing 'repeat workers' so that the client benefits from the continuity and by introducing 'temporary-to-permanent' schemes where workers are treated as probationers before being offered permanent work if they shape up.

However, employers often have an uneasy relationship with their agencies and, like those who specify and manage any outsourced contractual arrangements, they are often confused between demanding short-term contract compliance and long-term partnership. They may swing between closely monitoring the contract, adopting a hard line on any failures and indicating they are willing to move business elsewhere and viewing the contract as an arrangement among equals working towards the same goals. In the latter situation, short-term problems may be addressed in the light of sustaining a long-term working relationship.

For all concerned, suppliers need to make up their minds what it is that they want. They should take a leaf out of the outsourcing book. Here a clear distinction is made between commodity resources (plentiful in the labour market) and niche resourcing. Those who want volume recruitment may choose their supplier on price, frequently re-tendering to get the best value. By contrast, those having to fill specialist or difficult to fill posts might look for partnerships based on shared culture, values and priorities.

And those that need recruitment at both ends of the spectrum might be advised to employ two different firms.

This distinction in the sort of relationship between client and supplier also affects the day to day management of temporaries. The partnership approach to relations between client and supplier can lead to the agency being involved in on-site discussions of the exact resource requirements, even having responsibility for determining the number of temporary staff required and the hours they need to work. This can mean that the agency closely monitors the temporary workers' performance to the extent that, in some cases, day to day performance management of the temps has shifted to the agency. Where there is a more transactional relationship, the agency may have little involvement once it has supplied staff to the client. The latter may then appear to take full responsibility for individuals, short of actually paying them.

This raises the question of the management of temporary workers. Agencies complain that clients want it both ways: they want to treat the staff as their own to motivate them, but at the first sign of any trouble are keen to see the agency as the employer. Perhaps, this is inevitable, even if it is not desirable. Employers do not want to see divisions in their teams. Many try to inculcate a sense of togetherness. Recognition of formal contractual differences would get in the way. Hence the pressure for agency staff to participate in team events and even receive the bonuses paid to the client's own employees. But where a temporary worker is not satisfactory in terms of attendance, behaviour or performance, organisations are likely to ask the agency to take action; not least because of the desire to avoid being seen by the courts as the employer.

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## Staying on the right side of the law

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Where temporary staff feel they have been treated unfairly, they may well seek to identify their host firm as their employer in order to pursue a claim. Current case law suggests that agency workers will have an employer and that contracts of employment may be 'implied'. Moreover, where the status is not clear, the end user (ie the host firm) may be at risk. Indeed, the Court of Appeal judgement in *Dacas vs Brook Street Bureau* suggests that agency workers are likely to be regarded as employees of the client if they are used for a year or more.

Treating a temporary or agency employee well, motivating them through providing quality feedback or more tangible inducements, may very well imply a contract and, in the event of a dispute, will leave the organisation at risk of being directly involved. To avoid this situation, it is important that the agency is seen to be operating as the employer by managing performance, giving feedback and having responsibility for remuneration, even if the performance judgements are based on the organisation's feedback.

So the organisation needs carefully to effect a trade-off between a well-managed and motivated member of the team and the risks of being regarded as an employer. This only becomes an issue, of course, in the event of a dispute and a well-motivated and contented temporary employee is less likely to end up disputing the terms of their contract. The risk still exists, however.

Good people management is further complicated by the fact that although much employment law is linked to employment status there is no standard definition of that status. Some legislation, such as the Working Time Regulations, refers broadly to 'workers', in others it is clearly restricted to employees only.

There are also key obligations that fall to an agency under Conduct of Employment Agencies and Employment Business Regulations 2003, which came into effect in April 2004. Agencies are required to investigate the candidate's background (by identifying any requirements imposed by law or by a relevant professional body that the individual must satisfy to do the work) and to pass on any information they obtain that relates to the suitability of the candidate, even after they have started temporary work. They must make plain whether they are supplying temporary workers or potential recruits, the fee involved and the process to be followed if a temporary proves unsatisfactory.

Further complications would come if threatened EU regulations requiring equal treatment between agency workers and employees come into force. After the 2003 failure of member states to reach political agreement on the proposed directive, it is likely to be much watered down before it is re-presented.

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# Motivation

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Despite an instinctive feeling to the contrary, there is some evidence that temporary staff are more content with their work and working environment than permanent staff. Guest and Clinton's (2006) extensive research found that workers on temporary contracts reported better well-being, better general health, more positive attitudes towards work, and better work behaviour than their permanent counterparts. The differences remained after controlling for a range of individual and organisational background variables (skill level, extent to which employed on contract of choice and whether in blue or white collar employment).

Although the majority of temporary workers bore out the national statistics that they would have preferred permanent jobs, their temporary status did not have a major impact on their well-being, work attitude and behaviour. Temporary workers reported clearer job roles and less work overload, which did have a modest positive impact on their level of well-being, but this was not the key variable. The main reason seems to be that temporary workers reported a much more positive state of their psychological contract<sup>2</sup> than found in 'permanent' employees. In particular, they reported:

- less violation by the organisation of the promises and commitments made to them than permanent colleagues
- fairer treatment and more trusting relations with the organisation than their permanent counterparts.

By contrast to the temporary ones, many permanent workers reported high levels of work overload, relatively high levels of irritation, anxiety and depression and a strong interference of life at home by work. This suggests that the explanation to the positive psychological contract for temporary workers lies as much in the deterioration of the relationship between the employer and permanent employees, as in something specifically beneficial for temporaries. They may have not had a long enough relationship with that employer to be disillusioned by office politics, their rewards or appreciation of their commitment. They may not have been taken for granted or their goodwill exploited. As Guest and Clinton (2006) state: 'temporary work might have drawbacks, but for many people in permanent contracts, the experience of work is more negative'.

This relatively positive psychological state may be reason for temporary workers to perform well, but there may be another contributory cause. Although there is only anecdotal evidence for this, temporary workers may also be motivated to do a good job for protective reasons. If they receive poor reports from the client, the agency may

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<sup>2</sup> described by Guest and Clinton (2006) as 'the perception of the employment relationship and the obligations implied in that relationship'

be unwilling to place them again. They may also be loyal to the agency and their colleagues there, so their willingness to do a good job may be out of commitment to the agency rather than the host employer. So, while some employers might assume that temporary staff are less reliable than permanent, they are more likely to regulate their own performance to ensure frequent placements.

But how is this feeling of well-being and disposition to perform, be turned into genuine engagement,<sup>3</sup> the willingness to 'go the extra mile' and deliver superior performance for the organisation? Coyle-Shapiro and Kessler (2002) argue that contingent workers are less likely to be committed to the organisation they are working for, precisely because of the transitory nature of the relationship and the fact that it is not bound by formal ties. They are less likely for the same reasons to build lasting relationships with customers. However, Coyle-Shapiro and Kessler believe this problem can be overcome by a clearer transactional relationship than may be possible with 'permanent' staff. The 'deal' may be easier to specify and honour for reasons that have a lot to do with it being time bound. As they do not expect a long-term relationship with the organisation, temporary staff are more likely to give greater saliency to short-term inducements or rewards received. As Coyle-Shapiro and Kessler state: 'they form a contingent view of the exchange relationship whereby their contribution in terms of citizenship behaviour is contingent upon what they receive from their employer'. In the absence of anticipated future benefits, the motivational basis for contingent employees appears to be the tangible and intangible benefits they actually receive from their employer in the here and now. If the organisation provides contingent staff with the necessary inducements, they will still respond in organisationally supportive ways.

Coyle-Shapiro and Kessler, unlike Guest and Clinton, seem to start with the premise that temporary staff will have a weaker and narrower psychological contract because they are not offered the rewards and inducements of their permanent colleagues. Contingent employees cannot expect long-term job security and may have reduced opportunities for training and career development so it may be assumed they have a less positive relationship with their employer. Coyle-Shapiro and Kessler believe that supportive HR practices (like formal or informal training, promotion opportunities and job security) are important antecedents to employee perceptions of the organisation's commitment to them as individuals and these can be delivered over a longer time-scale. So they assume that, as contingent employees are less likely to be recipients of supportive HR practices, they are less likely to see themselves as being valued by the organisation and consequently will perceive lower organisational support.

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<sup>3</sup> According to Robinson (2004), engagement is 'a positive attitude held by the employee towards the organisation and its values. An engaged employee is aware of business context, and works with colleagues to improve performance within the job for the benefit of the organisation. The organisation must work to develop and nurture engagement, which requires a two-way relationship between employer and employee.'

The implication for the treatment of temporary staff, if one takes the Coyle-Schapiro/Kessler view, is that temporary workers will be motivated by well-directed financial and non-financial inducements (like training and performance review). However, this brings us back to both the employment status of temporary workers and the client/supplier relationship. To avoid the worker being classed as an employee, the organisation needs to avoid being seen to be too involved in this activity. It needs to persuade the agency to be active and recognise that it will be at a cost. If there is a partnership-style relationship between supplier and client, then investment in employees can be on a win-win basis. And of course the temporary workers, and their customers, benefit too.

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# Conclusion

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Employing effective and motivated temporary workers can be vital to organisational success if these staff are deployed in critical business activities. To achieve positive results, an organisation needs to ensure the right temporary staff are recruited through having a productive dialogue with the providers of those staff in the first place and they then need to pay attention to the rewards and support received by those temporary staff once they are in post. Training, financial or other personally tailored rewards are all likely to have an impact on the performance of the temporary employee. There is a risk, however, that such a well-managed and motivated employee may have an 'implied contract' of employment. So organisations should ensure that the supplier remains the manager of these staff and, for mutual benefit, is prepared to invest in their reward and development.

Unfortunately, temporary jobs are often poorer in terms of training opportunities as firms expect to 'buy' skills rather than develop them in temporary staff. The probability of receiving training is 16 per cent lower for men working on temporary contracts and 12 per cent lower for women than those on permanent contracts. As well as damaging their future prospects, and negatively impacting on the economy, this diminished training activity may have an immediate effect on the output of the temporary employee. If temporary staff appear to be unmotivated and unreliable, clients might want to look to the reward and support given by agencies, and the encouragement they, themselves, give for such practices.

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# References

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- Conley H (2002), 'A state of insecurity: temporary work in the public services', *Work, Employment and Society*, Vol. 16(4)
- Coyle-Shapiro J, Kessler I (2002), 'Contingent and non-contingent working in local government: contrasting psychological contracts', *Public Administration*, Vol. 80, No 1
- Forde C (2001), 'Temporary Arrangements: the Activities of Employment Agencies in the UK', *Work, Employment and Society* 15 (3), 631-644
- Guest D, Clinton M (2006), *Temporary Employment Contracts, Workers' Well-Being and Behaviour: evidence from the UK*, January, Department of Management Working Paper No. 38, King's College London
- Polivka A (1996), 'Contingent and alternative work arrangements defined', *Monthly Labor Review (BLS)*, October
- Rankin N (2004), 'Agencies, Employers and the new Regulations', *IRS Employment Review*, March
- Robinson D, Perryman S, Hayday S (2004), *The Drivers of Employee Engagement*, IES Report 408
- Slater G (2003), *Temporary work in the UK: Evolution and Regulation*, The Nottingham Research Observatory, Occasional Paper Series No. 7