



Derbyshire Unemployed Workers' Centres

Agency Workers and Zero Hours

- The story of hidden exploitation

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The Never-Never Girl

- invented by Kelly Girl

- Never takes a holiday, never asks for a raise.
- Never costs you a dime for slack time (when the work drops, you drop her).
- Never has a cold, slipped disc or loose tooth (not on your time anyway!).

Acknowledgements

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We are indebted to the 31 temporary agency and zero-hours contract workers who agreed to be interviewed about their experiences.



Preface

The story begins when Unite the Union were alerted to reports of draconian working conditions and terms of employment in Sports Direct and uncovered a litany of hidden exploitation amongst agency workers in the Sports Direct warehouse in Shirebrook, Derbyshire and those on zero-hours contracts in their retail stores. Unite were at the forefront of highlighting the harsh working conditions experienced by thousands of workers including low pay, precarious working arrangements, a dependence on agency working and a culture of fear.

The campaigning by Unite and others led to the company being subject to media and parliamentary investigation and in April 2015 the Channel 4 Dispatches programme aired the 'Secrets of Sports Direct'. In January 2016, Unite presented written evidence to the House of Commons Business, Innovation and Skills Committee, concerned about the issues affecting employees in Sports Direct and the difficulties that limited their representation.

For more than two decades the issues of zero hours contracts and temporary employment agencies have been the subject of discussion at the union conferences and at the annual conference of the TUC. There has been nationally published research led by the TUC, ACAS, and others and has identified some of the problems for trade unions and their members arising from changing workplace practices. In the UK there has been a rise in Temporary Agency Work (TAW) since the financial crisis, with evidence suggesting the flexibility it offers,

has one-sided benefits favouring employers. Similarly zero-hours contracts leave workers vulnerable, subject to bullying and harassment and unable to plan their lives or budget effectively.

Yet the campaign often brought challenges of 'why are you picking on Sports Direct' and clarification was required about the extent of further hidden exploitation in workplaces across the local economy.

The following report is based on work carried out from January 2017 to July 2017 by the authors and others, involving semi-structured interviews with 31 workers on TAW or zero-hours contracts. We also interviewed managers from 4 local agencies and representatives from Derbyshire Unemployed Workers Centres, Unite the Union, North Derbyshire Unite Community branch and Derbyshire Law Centre. Statistical analysis was undertaken to ascertain the extent of TAW and zero-hours contract working in the UK and the East Midlands region through enquiry of the Annual Population Surveys from the Office of National Statistics.

We provide details of our interviews highlighting the experiences of those on TAW and zero-hours contracts. This story exposes the impacts of hidden exploitation and we make a number of recommendations to tackle the harsh and imposed regimes of TAW and zero-hours contracts. We also showcase examples of collective struggle – showing change is possible and can be dramatic.

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Summary

- Agency working and zero-hours contracts means insecure work with unpredictable hours and often either too few hours or too many hours which for many affect their standard of living, family life and health and well-being. Many TAW and zero-hours contract workers are in poverty, leading to debt and housing problems.
- In 2012 TAW reached its highest level since 1992 (Forde and Slater, 2014) and constituted 6.84% of the total net employment growth between 2010 and 2016.
- TAW is becoming more common amongst the self-employed.
- Younger people (under 25) are considerably more likely to be in TAW than older people. There were no significant gender differences in those undertaking TAW.
- Members of the Black, African and Caribbean labour force are more than 3 times likely to be an agency worker than the average (Judge and Tomlinson, 2016).
- Migrants, especially those who had arrived in the UK recently are overrepresented among temporary agency workers.
- There are significant regional variations in the extent of TAW with the East Midlands having the highest levels of TAW.
- The demand for TAW is driven by employers' demands for flexibility, not workers' preferences. Many temporary agency workers are in a temporary job because they could not find permanent work. Only every fifth of the temporarily agency workers actually prefer a temporary job and many are forced in TAW because they cannot find permanent employment. The majority we interviewed would not choose to work for an agency, would not recommend working for an agency and would like to see zero-hours contracts banned.
- Temporary Agency Work often carries a 'pay penalty' (Judge and Tomlinson, 2016). In most occupations temporary agency workers earned less per week than permanent workers.
- Temporary Agency workers are often under-employed with fewer hours than they want either on zero-hours contracts or working in involuntary part-time jobs.
- Working on zero-hours contracts can seriously damage your health and well-being. Often very short notice is given of shift times and hours are varied, insecure and unpredictable. Reports were of control and punishment regimes particularly if 'your face didn't fit'.
- Contracts and pay slips can be very ambiguous. These are often on-line only with difficulties in accessing. Some report not having a written contract or clear pay slips. Confusing charges and bogus deductions are sometimes made. Many report not knowing whether they are working for an employer, an agency or are classed as self-employed. Agency workers do not know whether their contract abides by the Agency Workers Regulations 2011.

Introduction

It was through the Sports Direct campaign that North Derbyshire Unite Community branch came across evidence of agency working and the extensive use by agencies of zero-hours contracts. For Malcolm Ball, a local activist and member of the North Derbyshire Unite Community branch:

“Agency working represents a serious challenge to free and effective trade union organisation and to fair employment. The right to work, to permanent employment and to the equal access to employment rights must be available to all workers”.

It was also becoming evident that the growth in agency and zero-hours contracts were closely linked to conditionality that has been a feature of claiming Jobseekers Allowance (JSA) particularly since 2006. The marked rise in benefit sanctions changed labour market conditions that unemployed workers faced with often a requirement that a JSA claimant sign up with at least two agencies. Colin Hampton from the Derbyshire Unemployed Workers Centres proposed that:

“Conditionality heralded the subsidy by taxpayers of Private Employment Agencies through Government regulations. Many people are not drawn to sign up for employment agencies by choice but by enforcement - this is in direct contravention of the United Nations Declaration of Human Rights that enshrines the free choice of labour”.

The Sports Direct campaign had shone a light on the issues and it was these workers' stories that led us to embark on a systematic study of the extent and reach of agency and zero hours work in the County.

Undercover reporters from the Guardian revealed that Sports Direct warehouse staff received below the minimum wage largely as a result of enforced end-of-shift searches. 80% of staff are on zero-hours contracts at the firm controlled by Britain's 22nd richest man – billionaire Mike Ashley. Many are recruited by the agencies Best Connection and Transline Group. Transline implement a rigorous 'strike system' with punishments meted out and after six 'strikes' within six months, contracts are terminated. Strike offences include spending too long in the toilet, chatting or wearing one of 802 banned clothing brands.

Workers have been deducted 15 minutes pay for clocking on 1 minute late but are required to finish a job before clocking off - yet over working is not compensated. “The precarious agency contracts whilst not illegal make it almost impossible for workers to challenge unfair treatment within this culture of fear” suggested Unite regional union officer Luke Primarolo.

(Source: Goodley and Ashby, 2015)

The political economic context is important. In recent years there has been declining unemployment throughout Europe and the labour market in the UK today has a record number of people in work. The UK unemployment rate in the last quarter of 2014 reached its lowest level for 6 years at 5.8%. Yet this has been accompanied by a rise in temporary, insecure and precarious work. TAW constitutes a significant part of this job growth (IPR, 2015). Flexibility in the labour market allows people to work part-time, temporarily or be self-employed rather than being unemployed (MacInnes, 2016). However, whilst this changing, post-recession labour market has higher than

expected levels of employment, it is also underpinned by a growth of temporary and involuntary part-time work and work that is increasingly precarious, low paid and with very little job security.

Temporary agency workers often fulfil permanent job needs but are denied permanent employee rights (ILRF, 2009). The wages received often cannot support an individual or household. Precarious work is hard to define but a useful framework is from Olsthoorn (2014) who suggests that precarious work lies at the intersection between three dimensions of employment.

The work may be insecure such as involving fixed time contracts or temporary agency work. There may be unsupportive entitlements, for example little access to income support when unemployed and lastly employees are often vulnerable, for example very reliant on this work with limited - if any - other choices (EMPL, 2016). Precarious work means an unpredictable pay packet, significant pay penalties and subsequent impacts on personal and family lives.

The Jobs-to-Rent study concluded that TAW does not offer long term prospects of better or permanent jobs and TAW offers insecurity not flexibility (IPR, 2015). This includes an inability to plan financially, increased debt and little access to credit or secure housing such as access to mortgages or tenancy agreements. Organisation of childcare or care of others and to enjoy any planned leisure time can be significantly affected (Hudson, 2015).

Although the Labour Force Survey in the summer of 2014 suggested that 1.7 million workers reported they were in some form of temporary work, the numbers may be substantially more (Hudson, 2015). As interviews have shown, the workers often lack awareness of the type of contract they are on. TAW arrangements can be varied and complex, making it hard to accurately identify who is a temporary agency worker. For example, temporary agency workers maybe employed directly by the temporary

work agency as employees of the agency and sent out to customer companies to work on an hourly basis at the customer's premises; they may be engaged by the temporary work agency on the basis of a contract for services, so although they are not employees of the agency, they are still deemed to be workers; they may be supplied by a temporary work agency to the company who then employs them. Agency workers work through an agent and temporarily for the hiring firm. There are a variety of types of agency including intermediaries which operate as umbrella companies, master/neutral vendors and 'preferred suppliers' (Forde and Slater, 2014).

Flexibility is often an employer-led choice with few benefits of flexible working available for workers. The drivers are the financial crisis and its aftermath and a concern has been a sharp increase in the use of zero-hours contracts and more widespread use of agency workers since the recession (Hudson, 2015).

Although underemployment and other forms of precarious work can occur in time of economic growth or stability, economic recessions are more likely to generate underemployment because new job creation is low. This has often led to job insecurity, involuntary part-time or temporary work and abuses of employment relations such as non-compliance with labour legislation and agreements.

Labour market flexibilisation and casualisation has shifted risks to workers. This has affected all types of workers, for example 53% of University academics are on some sort of insecure contract (UCU, November 2016). Work can become precarious - when employment agencies are involved, as a result of outsourcing of work and when work is inappropriately classified - for example as short-term, independent contractor working, bogusly self-employed, zero-hours, short hours (underemployment) and with the use of term-time only contracts.

Zero-hours contracts have been associated with sectors that are low paid and have casual working practices such as food and hospitality and the wholesale and retail sectors. However a feature has been its extension to significant parts of public and outsourced services such as education and healthcare. In April 2013 there were almost 100,000 zero-hours contracts in use in NHS hospitals – an increase of 24% since 2011 (Hudson, 2015). The number of people working on zero-hours contracts has reached a record high of nearly 1 million; the signs are that the trend may have reached a peak (Monaghan, 2017). In the period 2014-2016, around 14% of agency workers were on zero-hours contracts – almost 5 times the current national average (Judge and Tomlinson, 2016).

Since 2010 of those 2.6 million who have started a new job, a third (900,000) have been classed as self-employed. Employment status is crucial to all aspects of working life determining rights and obligations enshrined in law. However, the term self-employed is a broad one. A self-employed person is not paid through the 'Pay-As-You-Earn' tax system and do not have employment rights such as holiday and sick pay, minimum wage and employer pension contributions (Field and Forsey, 2016).

A shift towards self-employment appears to be a permanent feature of the UK labour market; however, there has also been a substantial rise in the level of underemployment reported by the self-employed (MacInnes, 2016; Flanders, 2012). A recent report suggests that 'freedom' and 'flexibility' of self-employment is reported differently on either side of the employment relationship and that there has been evidence of enforced self-employment and accompanying abuse of employment and taxation practices.

This has been termed the 'Hermesisation' of the economy after the 'gig economy' parcel distribution firm Hermes (Field and Forsey, 2016). CIPD (2013) said 47% of 'gig'

economy participants don't feel like they are their own boss. 'The notion that Uber in London is a mosaic of 30,000 small businesses linked by a common platform is to our minds faintly ridiculous' said the judges in the Uber employment tribunal where the ruling was that Uber drivers are not self-employed and should be paid the 'national living wage' (Osborne, 2016). The Citizens Advice Bureau has suggested that nearly half a million people could be falsely classified as self-employed (Osborne, 2016). Often migrant agricultural workers are registered as self-employed 'another policy-induced practice through which agencies and British farmers extract more profit from labour' (Maroukis, 2015:18).

Hermes is one of the UK's largest parcel delivery firms with a gross profit reported of 68 million in 2014-15 – a rise from 38 million in 2011-12. Its 10,500 couriers work on a self-employed basis despite working for this one company. Thus Hermes is under no obligation to pay pension or National Insurance contributions and can withdraw work at very short notice with no right of appeal. Hermes couriers report poor IT systems that record work done, confusing and changeable ways in which monthly earnings are calculated and a gross shortage of basic humanity demonstrated such as area managers haranguing staff to leave the bedside of sick and dying relatives and return to work.

(Source: Field and Forsey, 2016)

Many enjoy few benefits of self-employment e.g. choosing work hours but bear all of the costs such as National Insurance contributions (Field and Forsey, 2016). Sources of insecurity are inadequate pay, shortage of basic humanity in treatment of workers, absence of flexibility and commonly accepted practices often associated with self-employment, confusing

pay packets and deductions and the ever-present fear of losing work (Field and Forsey, 2016).

The agency industry umbrella organisation – Recruitment and Employment Confederation (REC) suggest that employers have learnt from the recession that the need “to be able to respond to fluctuations in demand is now recognised as essential to business competitiveness” (Maroukis, 2015:13). REC says ‘it is useful for employers to flex their workforce to manage fluctuating demand and cover absences’ (REC, 2014). However agency work is not a transient form of employment increasingly. Three-quarters of all agency workers are working full-time which suggests that this is not work to fit round other commitments but instead the main source of earnings (Judge and Tomlinson, 2016).

Many TAW workers have long tenure suggesting that this is permanent work and not a temporary arrangement. We interviewed Danielle from the agency ‘NC solutions’ (name changed) who discussed changes since the recession: “since the recession companies’ phone up wanting ‘15 tomorrow’ or ‘20 for an evening shift’. Pre 2008 temp workers were just there for the spike times. Post 2008 now there’s been a lot of trimming and fewer temps. Additions needed are not to cover e.g. holidays of permanent staff – now permanent colleagues cover”.

Organisational transformations mean ‘business needs’ create additional workplace pressures, the issues are ‘flexibility’ for whom and on whose terms (Smith, 2016). Rather than experiences of mutual flexibility, agency workers often face uncertain working hours and cannot live on the random hours and so random pay offered (Maroukis, 2015).

A recent review was commissioned by the Theresa May government into ‘working practices in the modern economy’ led by Matthew Taylor. It painted a rose-tinted picture of ‘the British way’ (Taylor, 2017:9) to have a ‘goal’ of ‘good work for all’. The written submission by Unite to the review welcomed the recognition by Matthew Taylor that too many workers feel they lack control or a voice in the workplace. Historically exploitative working arrangements by employers - such as the ‘casual dock labour scheme’ where workers turned up to be selected (or not) at the docks - reflected fragile trade unionism with the burden of demand fluctuation placed on the worker rather than absorbed by the employer. In the contemporary workplace we are often witnessing a ‘race to the bottom’ in terms of pay and conditions – the argument remains: ‘Trade unions and collective bargaining are an important part of addressing the imbalance of power’ (Unite, 2017)

Studies have linked the rise of Temporary Agency Work (TAW) to cuts in public sector services with workers bearing the brunt of the crisis – for example in the healthcare sector (IPR, 2015; CIPD, 2013). Traditionally through agency workers, employers manage peaks and troughs at work as a short-term solution but such work has often been linked to poor levels of training and less job satisfaction (Hudson, 2015). However since the recession use of agency workers has risen beyond fulfilling short term needs. In 2014 the Labour Force Survey showed a sizeable portion of agency workers in Manufacturing (19.4%); distribution, hotel and restaurants (17.2%); banking, insurance and finance (22%) and public administration, education and health (23.8%) (Hudson, 2015; Judge and Tomlinson, 2016).

The extent of temporary and zero-hours contract working in the UK

Although the majority of workers are in formal employment and agency and zero-hours contracts are not the norm, nevertheless – along with bogus ‘self employment’ - they are a growing feature of UK workplace contracts. Precarious forms of contracts and working practices are a growing trend in the European Labour Market – a concern given that standard open-ended contracts are the least susceptible to risks of precariousness.

Table 1: Type of contract and labour market share in the EU (source: EMPL, 2016)

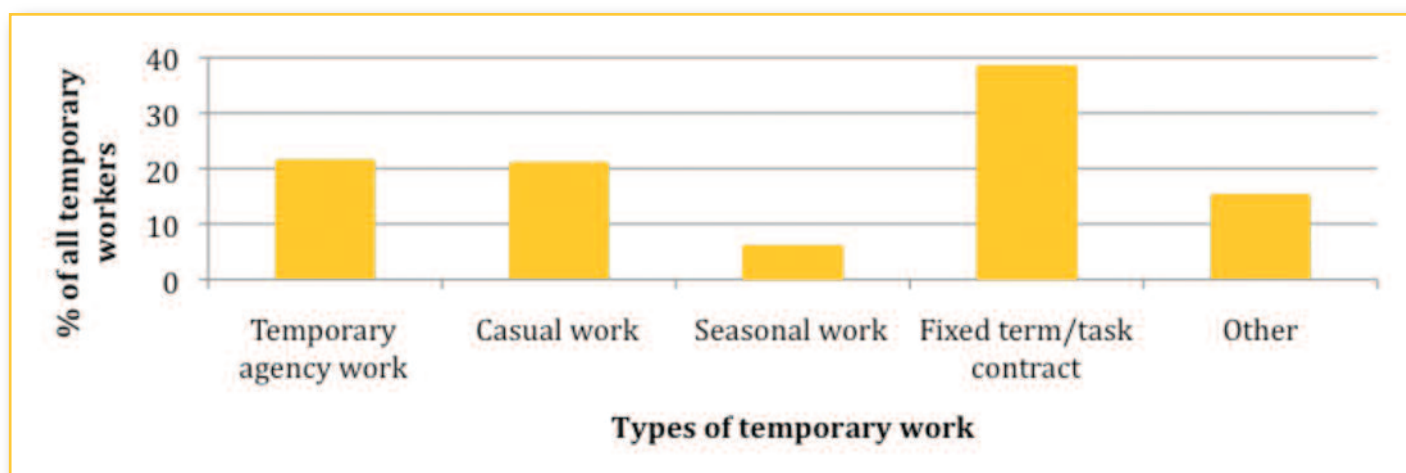
Type of contract	Labour market share in the EU	Comments
Open-ended full-time contracts	59%	Decreasing trend
Part-time work	7%	Involuntary part-time work accounts for 25% of part-time work; part-time work of all kinds is an increasing labour market trend
Freelancers	10%	Stable trend in the EU but growing in the UK – high risk of bogus self-employment status
Fixed term contracts	2%	Stable trend
Temporary agency work	1.5%	1.7% in UK. Sources suggest the number is nearly 1 million in the UK
Zero-hours contracts	5% in UK	Highest within EU
Internships	Not known	46% of 18-35 year olds in the EU have completed at least one internship
Informal/undeclared work	4%	Stable trend

To analyse TAW in the UK, this research report used data from the UK Annual Population Surveys (APS) (ONS Social Survey Division, 2013). Selected findings show that:

- Of all employees in the UK, 1.29 per cent (or 341,022 workers) were temporary agency workers in their main jobs. Between 2010 and 2016 an additional

1,581,083 people became employed in the UK, of them 108,078 were temporary agency workers, which represented 6.84 per cent of the total net employment growth during this period. Forde and Slater (2014) also found that in 2012 the rate of TAW in 2012 reached the historically highest point since 1992.

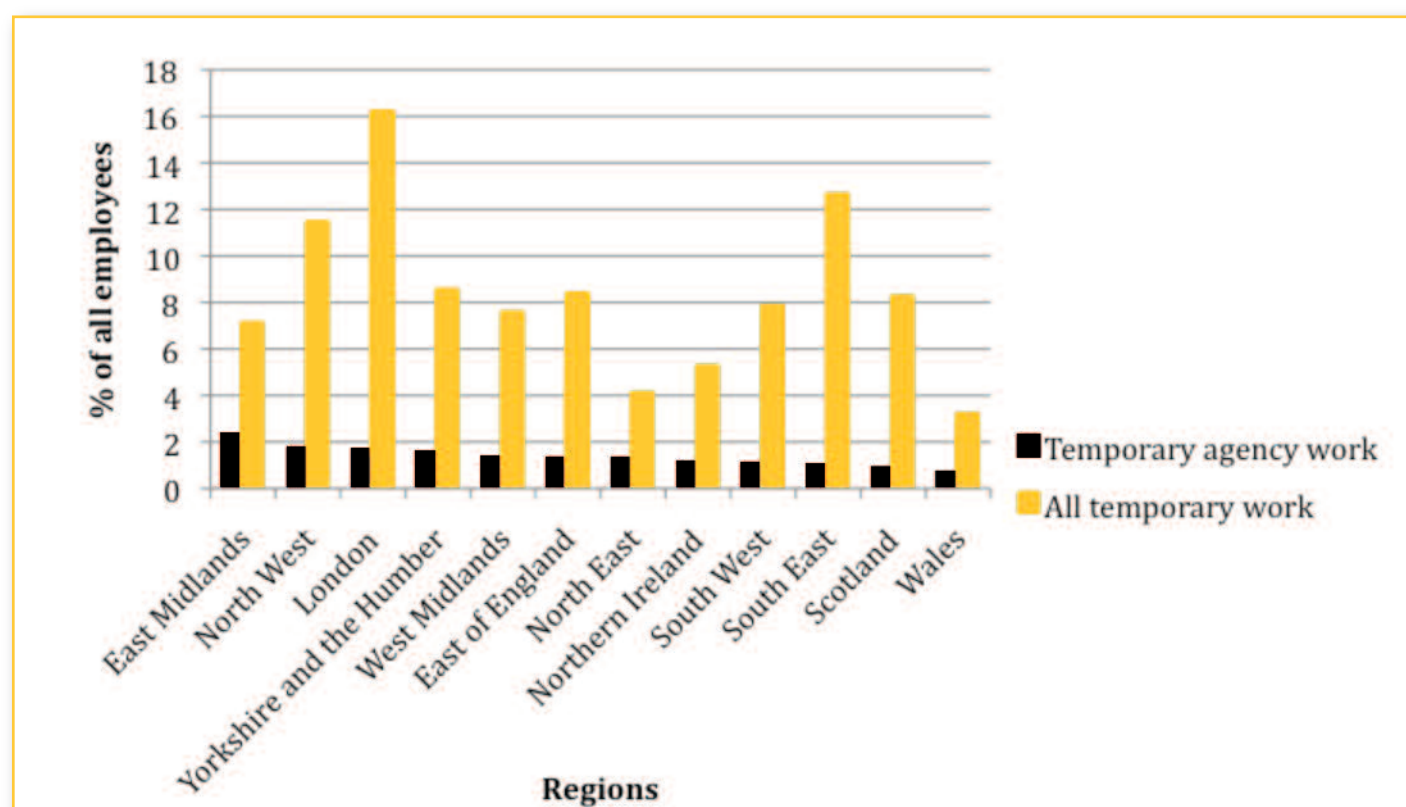
Table 2: Types of temporary work in 2016 (source APS March 2016 - April 2017)



- Agency work is more common among the self-employed. 2.2% of the self-employed (or 107,804 people) have reported that they are paid a salary or wage by an employment agency.
- There are significant regional variations in the extent of TAW: the proportion of temporary agency workers was the highest in East Midlands, North West and London but the lowest in Wales and Scotland. Not all regions with the highest levels of temporary work had the

highest levels of TAW. For example, while South East had one of the highest levels of temporary work in general, the level of TAW there was under the national average. In contrast, East Midlands had the highest levels of TAW but the level of temporary work in general was not so high in this region compared to other regions in the UK. This suggests that in some regions of the UK some forms of temporary work are more or less common than others.

Table 3: Regional differences in TAW (source APS March 2016-April 2017)



- The demand for TAW is driven by employers' demands for flexibility, not workers' preferences. A half of temporary agency workers are in a temporary job because they could not find a permanent job. Only for roughly every fifth of temporary agency workers, the temporary job is their choice.

Workers who are working in certain work arrangements by choice have more positive experiences, higher well-being and job satisfaction (Kamerāde & Richardson, 2017; Loughlin & Murray, 2012) than those who have accepted certain working arrangements, e.g. agency work, because they could not secure a job they preferred. Therefore we could expect that a considerable proportion of temporary agency workers might not have positive experiences of temporary agency work.

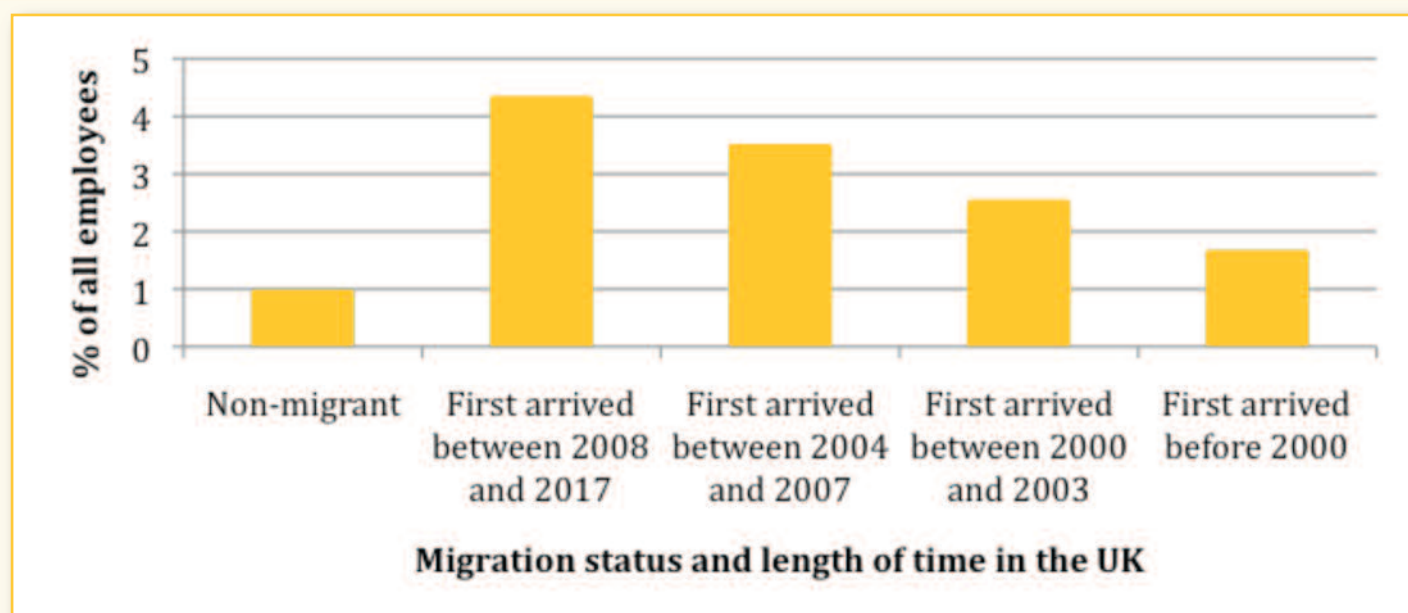
TAW driven by employers' demands can have negative effects on workers work experiences, health, well-being and productivity. Only few temporarily agency workers actually prefer a temporary job and many are forced in TAW because they cannot find permanent employment. In the APS, a half (51.32 per cent) of temporary agency workers said that they were employed temporarily as they could not find a permanent job. Only for roughly every fifth (18.31 per cent) of temporary agency workers a temporary job was their choice, that is, they worked in a temporary job because they did not want a permanent job.

- In most occupations temporary agency workers earned less per week than permanent workers. The largest negative difference (-£45) in weekly net pay was in professional jobs, followed by process, plant and machine operator jobs (-£37) and skilled trades (-£29) .

- Temporary agency workers are as likely as permanent workers to work full-time but less likely to have worked overtime.
- Younger people (under 25) are considerably more likely to be in TAW than older people. There were no significant gender differences in those undertaking temporary agency work.
- One in five agency workers are aged 16-24 and tend to lack formal qualifications (Judge and Tomlinson, 2016). Members of the Black, African and Caribbean labour force are more than 3 times likely to be an agency worker than the average (Judge and Tomlinson, 2016).
- Migrants, especially those who had arrived in the UK recently are overrepresented among temporary agency workers. Although in 2016 migrants constituted only 14% of all employees, migrants were 40% of all temporary agency workers. Labour rental agencies in host countries and often with transnational branches in countries of origin facilitate cross-border movements or placements (Maroukis, 2015).
- Temporary agency workers had the shortest tenure lengths. On average temporary agency workers had been with their current employer for only 2.54 years, compared to 9.04 years for permanent workers and 3.73 years for other non-permanent workers.

These net pay averages are adjusted means: the average weekly net income calculated after taking into account the worker's sex, age, occupation, industry, sector, region and working hours. The adjusted means were estimated using regression analysis.

Table 4: Migration status and TAW (source APS March 2016-April 2017)



Workers' experiences of temporary agency work and zero-hours contract working

We conducted interviews with workers – mainly from Chesterfield – employed by an agency or on zero-hours contracts. Details are in table 5. Names have been changed to ensure anonymity. Out of the 31 interviewed, 3 were not working for an agency but were on zero-hours contracts. 28 were Temporary Agency Workers. Some of

these were also working on zero-hours contracts. 6 of these said they were looking for any work and were offered various roles. 7 were offered roles they had been looking for. 15 were offered work outside of their sector. 7 worked for an agency by choice and 21 did not – similar to the national picture.

Agency or zero-hours contract workers	Type of work looking for	Work found by agency	Choice to work for an agency?
Adnan	Warehouse	Factory	No but expected
Alan	Any	Factory, bins	Yes
Alexandra	Education	Education	Resigned to it
Amelia	Full-time admin	Reception and data entry	Yes
Ben	Admin/customer service	Sports Direct	No
Bob	Cleaning or factory	Cleaning and factory	No
Callum	Security	Security	Yes
Charlie	Retail	Packaged goods	No
Cheryl	Admin	Call centre	No
Damian	Any	Storage and warehouse	No
Danny (zero-hours only)	Care work	Not applicable	Not applicable
Dave	Milling turner	Milling turner	No
Dee	Any	Various roles	Yes
Dennis	Any	Care work, hotel catering	No
Frank (zero-hours only)	Education	Not applicable	Not applicable
Harry	Catering	Pot washing	No
Jackie	Admin/office work	Cleaner	No
Jake	Sports or with children	Fast food	No
Jan	Education	Admin (education)	No
Jez	Construction	General labouring	Yes
Jim	Any	Factory	No
Josh	Landscape gardening	Packing, injection moulding	No but no other way
Kath	Customer services	Telesales	No
Len	Machining	Machining and labouring	No but no other way
Lisa	Any	Call centre	No
Michael	Labouring	Construction	No
Rick	HGV	HGV	Yes
Sam	Business management	Van driving	No
Sarina (zero-hours only)	Catering	Not applicable	Not applicable
Tony	Catering	Lock keeping, pub work, school	Yes
Wayne	Warehouse	Factory	No

Table 5: Interviews with agency and zero-hours contract workers

There are well over 20 profit making agencies operating in the region with new agencies being set up and mergers and acquisitions evident – for example, Transline were recently bought out by NMS projects (part of the Russell Taylor Group) after facing financial difficulties as a result of the Sports Direct publicity. They lost several clients including Amazon and ASOS (Butler, 2017). Most of the agencies declined to be

interviewed, but 4 did participate. Names have been changed but we include statements from Ollie from Blue Sky Placements, Danielle from NC Solutions, Amy from Star Staffing and Stewart from Better Staffing Agency. We also held discussions with representatives from Derbyshire Unemployed Workers Centres (Colin Hampton), Derbyshire Law Centre (Andrew Montgomery), North Derbyshire

Unite Community (Malcolm Ball) and Unite the Union Regional Official who is based in Nottinghamshire (Luke Primarolo).

The semi-structured interviews were shaped by understanding issues that have been raised through reports, campaigns, union work, and anecdotal evidence from contact with temporary agency workers and workers on zero-hours contracts through Derbyshire Law Centre and DUWC. We wanted to find out whether people were working for agencies or on zero-hours as a choice, whether the work offered matched

their skills and what kind of work they were looking for, issues around pay, terms of conditions and contracts and how TAW or zero-hours contracts fitted with other areas of their life including the impacts on standard of living and health and well-being. Lastly we left it open for people to add anything they wanted to discuss. To gain the agency perspective we also interviewed managers of 4 local agency firms. In this next section we discuss the themes that arose from the interviews with some selected illustrative quotes.

Job Centre Plus, the benefit system and sanctions

The first contact with agency work often starts at the Job Centre where claimants are encouraged - or coerced - to sign up with agencies. The 'Claimant Commitment' means claimants have to evidence that they are 'actively seeking work' and usually this includes signing up with agencies. This can be resisted but if directed to, then not doing so breaches agreement conditions and leads to sanctions (JSA Survival Guide, 2017). As Bob explained:

"I got offered a job with an agency in Manchester with no expenses for travel and so on. I said 'no' and then was sanctioned for refusing work".

The sanctioning of JSA and Employment and Support Allowance (ESA) claimants was strengthened by the Welfare Reform Act 2012 with one-fifth of JSA claimants being sanctioned between 2008 and 2012 – usually because they were unable rather than unwilling to comply with conditions

imposed (Webster, 2014). Colin Hampton from DUWC noted:

"Sanctions and agency working significantly changed the labour market conditions that the unemployed worker faced. The jobs on offer at the terminals at the Jobcentre Plus offices became predominantly Agency jobs".

"It is clear that sanctions are not an evidence-based system designed to promote the employment, wellbeing and development of the labour force. This is a chaotic system, based on ideology and characterised by cruelty, incompetence, inefficiency, malpractice and dishonesty, which is doing immense damage to the least privileged in our society, and working against many other public and voluntary programmes aimed at addressing social ills".

(Webster, 2014)

Ben explained the process:

"I was told to attend an interview with Transline at the Job Centre" - Ben, Sports Direct.

What compulsion also means is that agencies and organisations do not have to make an effort to attract workers with 'appealing' terms and conditions. There is thus no incentive to consider quality of offers or place quality ahead or on par with profit.

Derbyshire Law Centre stressed how people were much worse off when persuaded by the Job Centre to sign up with agencies:

"Job Centre Plus moves people onto agency work – they are much worse off with an agency. People sign up for multiple agencies – some are dreadful – either maliciously or otherwise have no idea of their requirements and obligations. Caring and cleaning agencies especially are bad. Also get people (often bogusly) to sign up as self employed – to reduce their obligations. There are many myths that go around – often perpetrated by agencies themselves that zero hours workers are not entitled to holiday pay, statutory sick pay etc Agencies are wilful and belligerent about basic employment rights. Employees can enforce seeing payslips and contracts but often don't"
- Andrew, Derbyshire Law Centre.

However for some claimants it wasn't clear from the start that work offered was TAW:

"I worked in a call centre for an agency. I was told about the job at the Job Centre but I wasn't told I would be working through the agency. It was full-time - 10-7. I only got 2 x 15 minutes break. It was a

long and boring day. It isn't my choice to work for an agency, I would never have gone for the job if I had known"

"You had 2 weeks trial before being made permanent. I got paid OK for the first 2 weeks and then I worked a full day and was told not to come back. When I said 'so where's my pay for today' they said 'ask the agency'. That was the first I knew that I was working for an agency" - Cheryl.



Others were not impressed with Job Centre Plus:

"Get a job through the job centre? You've got to be joking – they only hassle you and threaten you" - Michael.

"Having a criminal conviction (caused by poverty in the first place) often means an Agency will not include you on their lists, which leads to false declarations, themselves a criminal offence. The probation service though has been more help than the Job Centre or all the agencies put together" - Bob.

There were mixed impressions from agencies themselves about Job Centre Plus. For Ollie from Blue Sky Placements:

"Working with the Job Centre has become 'atrocious' over the past 10 years. It isn't viable to use them, not many people are

seriously looking for work but use it in order to get the welfare package. The response from the Job Centre admin is poor”.

The testimony from our interviewees belies this view. For Danielle from NC solutions, experiences were better in terms of promoting agency business:

“With the Job Centre Plus – relationships have improved over the past 5 years and now NC solutions get a free room for recruitment and Job Centre Plus advertise our open days”.

The experience of being an agency worker

Many of the temporary agency workers we interviewed felt they stood out in workplaces with at times a stigma attached:

“I felt different to permanent employees”
- Tony;

“I was treated differently at work because I was agency. The best aspect was leaving – I wouldn’t recommend agency work”
- Damian.

This can affect working and social lives and well-being:

“There is a stigma/different approach within companies towards agency workers; you’re often seen separately, sometimes by other workers, and sometimes treated harshly or unfairly by managers; this can also impact on how you feel about mingling socially at work (i.e. it often seems better not to) – this can lead to contracts being short ones, to your making little progress within the company structure, and to an overall feeling of low self-esteem and if you raise such issues, you’re likely to be dropped, or get fewer hours”. - Jan

The work was often insecure:

“You can’t say no and even if you’ve done nothing wrong they can just say – go. Sometimes it’s just random. It’s very insecure” - Josh.

“You’re often not told by the company when they end your contract and so every temp job turns to a nightmare”
- Jan.

Evidence from Derbyshire Law Centre:

In 2015-16 there were about 1200 employment enquiries of which 220 were taken on as case work and 15-20% of these were issues related to agency, zero hours and self employment status. Asked if things were getting worse over his time at DLC – yes worse, far worse - there are lots more problems about self-employment status and zero hours.

Those on zero hours are terrified to take a grievance – fear that they will get no further work. Zero hours staff are usually also on welfare benefits and this fluctuates week by week and cannot budget therefore face repossession proceedings or eviction.

Migrant workers are also terrified because of their immigration status – there is a rigid test and they are not entitled to benefits but can work. So many are working stupidly long hours but are worried about complaining. – you are beholden to the contractor for your total livelihood. Generally the government’s draconian ways of working with claimants etc is blinkered – the impact of all their measures is much more than just one job.

Continued

Employment issues give rise to housing issues which give rise to family welfare issues and debt. The welfare benefits system is a nightmare – sanctions galore. It makes no overall financial sense to put people in this position

(Andrew, Derbyshire Law Centre)

“We have a mixture of temporary and permanent staff. The vast majority want permanent jobs but some want days off to play golf and therefore want hours to suit them” - Stewart, Better Staffing Agency.

Wayne reiterates the role of the Job Centre in working for an agency:

“I want full-time work. I don’t choose to work for an agency – it’s what the DWP [Department of Work and Pensions] expected me to do”.

Alan and Alexandra though had some positives to say about agency working:

“I worked for years with agencies doing all sorts. If you’re with a good agency you’re laughing. I like it, if you fancied a change you could have one – the only drawback is no pension. As long as you stay away from zero hour’s stuff, you’re OK” - Alan;

“I wanted a permanent job but have worked for agencies for 8 years – I now feel resigned and focus on the positives of agency work - if you don’t need regular work, I would recommend agency work. It suits people who don’t have commitments like a mortgage or children – there may not be a regular income” - Alexandra.

Michael however felt there was one good thing about agency work:

“The best thing about agency work is that you can stick 2 fingers up and go – you can walk off – that’s the only good thing. One place shouted at me ‘If you walk off I’ll not give you a reference’ – I just laughed HA HA I’ve no kids and live alone, I don’t need the work THAT badly. The main complaint is what they charge – double what you get and they LIE LIE LIE about what you are going to get” - Michael.

Wayne also explained about the pitfalls of refusing work:

“I got a phone call at 11 o’clock at night as I was getting into bed. They offered me a single night shift (unloading pallets) and called it a ‘work placement’. I turned it down and have had no contact with the agency since. Basically you can’t refuse a job”.

For many temporary agency workers this kind of work is a second best job outcome (Judge and Tomlinson, 2016). Michael agrees:

“It is my 2nd choice to work for an agency!”

Many like Ben and Dave wanted full-time permanent work:

“No I would rather work directly for a company. I want a full-time permanent job” - Ben.

“It isn’t my choice to work for an agency. I got the jobs through web sites. I wanted full-time permanent and was well thought of with hints and vague promises but I was never taken on permanently” - Dave.

The agencies themselves admit that most want permanent jobs but compared to our interviewees conjure up a different image of those who choose temporary work:

For the majority of those we interviewed, agency work was not a choice, or something they would recommend:

"I only work for agencies because I couldn't find any other way. I've done the CV building course and I send them off – but I don't get any reply. I want a secure job and stability. I've got a lad now you need stability - if there's nothing else but it's not ideal" - Josh;

"I've had 5 or 6 agency jobs over 3 years – I'd rather avoid them and work full-time. To friends and family I say – NO, don't work for an agency, only as a last resort" - Bob;

"I wouldn't recommend agency work, there's nothing good about it" - Jim;

"The good thing was getting money. The bad thing was 'being spoke to like crap', It was horrible. They weren't organised and there was no training" - Cheryl.

Case study: Education sector – Andrew, Alexandra and Jan

"The positives: Variety of workplaces means you're not sucked into petty workplace politics. Instead, schools are grateful to you, and you get thanked. You get varied experience, and don't have to 'belong'. If it doesn't work out for any reason, you can simply quit, and take on something more suitable. It's very flexible, which works for the schools as well. It's an ideal way to get experience if you're young and just starting-out. The negatives: No guaranteed regular income so necessary for rent/mortgage and planning your life. You don't know when you may be 'phoned-up and required to work. You can be rung-up at 7.30 am, or not, and if you are you're expected to be at the school 10 minutes ago!. The pressure is usually from the agency rather than the school, who are just grateful someone turns up. Placements are becoming increasingly competitive, you may be offered a 'trial' - I have always been paid for the 'trial', but it was suggested once that I wouldn't be, it would have meant turning down an opportunity for a long-term placement".

Alexandra, teaching assistant.

"As an agency worker you can't have a normal life. While in work I couldn't work enough hours for a decent standard of living. In reality it was difficult to plan time off – negotiating time off could lead to loss of hours or termination of contract".

Jan, education admin.

"I received training but not paid (Alexandra, teaching assistant). Yes I've had training – but only 'as you go' or 'on the job' often inadequate for what the job demands".

Jan, education admin.

"One example – a teaching assistant in a school - she works different hours each week. EVERY WEEK she has to have her housing benefit reassessed. There are often mistakes but it's hard to check. If housing benefit decide they've overpaid they take the maximum amount of overpayment back (i.e. £10 a week) regardless of what's owed. Everything is designed to trip up the claimant and make things hard. This leads to multiple debts with people paying whoever shouts and threatens the loudest – people prioritise the wrong debts e.g. leave rent unpaid".

Andrew, Derbyshire Law Centre.

Hours and notice of work

A feature of the current labour market is underemployment with involuntary part-time working or workers not getting the hours they want or need to live. This has a big effect on health and well-being (Kamer de and Richardson, 2017). Many of those we interviewed struggled with the hours offered and notice given:

"I would have liked more hours – I had to pester" - Tony;

"Agency hours are often irregular, which means you're losing pay and JSA - therefore, you can't predict your income; it can also lead to problems with high/emergency tax codes (short-term, but often leading to inadequate income for one or two weeks, i.e. the 'working in hand' period)" - Jan;

"The shifts are 12 hours long and vary. I get a phone call with hours notice" - Jim.

"The agency told me I'd work for 40 hours a week, but I only got one shift in four weeks - they'd text me at the last minute to say if I was wanted or not" - Jackie.

"Most jobs adverts with agencies say minimum 2 weeks and may result in a full-time job – rubbish. If you've done the work you often get laid off e.g. after 4 days. In the last 2 years it's got a lot worse working for agencies" - Michael.

For many the issue was the unpredictability of the work:

"Before [the agency] they might phone you in the morning and you'd just have time to pack a few sandwiches and get the bus" - Josh;

"I've worked for two agencies – terrible experience with inconsistent working patterns from 6am to 6pm. However I never got enough hours. I don't mind the work; it's that you can't predict the hours" - Damian.

Zero-hours contracts

Zero-hours contracts were not popular with our interviewees. It was something imposed and often has ensuing problems over housing and budgeting. Andrew from Derbyshire Law Centre explained:

"We often have to go to court and then explain to the judge what zero hours contracts are and the problems they cause in rent paying etc and why people struggle to budget. It is very difficult overall".



Case Study: Fastfoodco: Jake and Sarina:

"I worked for Fastfoodco on a zero hour's contract. They employ loads of workers – far more than they have hours for but they keep control of sickness, holidays, people leaving and so on, this way, but that means not giving people enough hours to live on (Jake). When I saw the job on-line it said full-time - it isn't.

"Details of shifts get posted every week. They can change all the time. Night shift 5-2 am - 35-40 hours, but sometimes I just get 1 shift. If you're 16 you work 4 hours and then a break but over 18 and its 5 hours before a break".

Sarina.

"Notice about shifts was bad – the rota for the next week was given on a Thursday but sometimes not until Friday and this meant that you couldn't plan anything. I usually got 25-30

hours a week – 20 hours if they weren't busy and I was paid the minimum wage, this isn't enough hours – I could only afford the rent and my phone".

"The day shift began at 05:30 and the night shifts ended at 06:00. You were meant to have at least 11 hours breaks between shifts as a minimum and often I was given only this – hardly enough time to get home and sleep. Even full-time permanent staff could be on only 15 hours (if their face didn't fit). You needed to be friends with the shift organisers – friends would get the best shifts. Out of spite some full-time workers only got 1 or 2 shifts a week at times. I needed 45-50 hours at Fastfoodco to live properly on the wage".

Jake.

"There are lots I could tell you but I'm too frightened. They'll find out and then..."

Sarina.

Workers found issues with the notice given of shifts and the fact that the hours of work were not guaranteed. This meant fitting work around other commitments was difficult. The Fastfoodco case study illustrates a common theme of zero-hours contracts being that of control of the workforce – not just having a flexible workforce but also one where shifts were given as 'grace and favour' and woe betide if your 'face didn't fit'.

"I was on a zero hours contract and only found out when I was working from the agency about 2-3 hours before I was due to start" - Jackie.

"The agency would give about a weeks' notice of shifts (or the firm would), however sometimes it was the day before (especially workers whose face didn't fit). It was a 37 hour week and weekly pay which was great. However I worked at the same place 3 times and was always finished before Xmas – the firm avoided holiday pay that way" - Dave.

There are around 1 million people in the UK on zero-hours contracts. McDonald's is one of the largest 'accommodation and food' employers and around 22% are on zero-hours contracts. McDonald's employs around 115,000 workers, 42% are under 21 – young, highly casualised with a low level of organisation, bullied, victimised if they speak out and face irregular work patterns. 30% of workers in this sector are migrant workers fearful of their status.

Sherry, 2017.

"I get zero hours contracts with the agencies – unless I get pre-arranged long-term work at a particular place. I find out about shifts at any time – maybe an early morning phone call the same day, or I may get some notice. I don't have 'usual' hours" - Alexandra.

"I'm a van driver on zero-hours contract – nothing is written down. I would be called in the night before my shift and sometimes at 6 am in the morning I was needed. I worked between 20 and 50 hours a week. I got the same pay as others but no holidays" - Sam.

Dennis and Danny also spoke about a 'punishment regime':

"There was nothing positive about zero hours – it was used as a weapon against me – my hours were dropped if I wasn't servile to management" - Danny.

"Many people were dissatisfied with zero hours – you either had too many hours or too few. They overloaded the 'efficient' worker – if you were 'good' they wouldn't leave you alone. However if you refused hours then your overall hours were cut as a punishment – I realised that that was the system. I felt this happened to me (punishment). One older worker – he was good and very flexible and they took advantage of him. He was asked to do more and more night shifts – he didn't want to do so many. Then he was asked to work a morning shift – the day after working all night. They went on and on and he accepted once and then they asked again and again. He said NO SORRY – they took all his hours off him for 3 months" - Dennis, ex-care worker.

For those working on zero-hours contracts via an agency then access to paid work or to better paid work is controlled by the agency. Malcolm from North Derbyshire Unite Community branch discussed the 'hidden' exploitation involved:

"Their contract and their income is from the agency and we discovered considerably more 'hidden' exploitation. These included bullying, sexual harassment, working when ill, workplace births and miscarriages"

Hours and shifts can be used as a control mechanism sometimes within a punishment regime. As Colin from DUWC noted:

"Hours and work were being used to discipline the workforce and people who were not willing to work unreasonable hours would be subsequently refused hours"

The Law Centre were also aware of various 'punishments' metered out e.g. if a worker refused to work longer hours or raised Health and Safety issues:

"Punishment is withholding work or reducing hours" - Andrew, Derbyshire Law Centre.

Like many who are campaigning to stop draconian working practices, many of our interviewees would like to see the end of zero-hours working, for example:

"Zero hours are wrong, you should never be employed on one because of the uncertainty" - Sam.

"I don't have a good thing to say about working on a zero-hours contract, they should all be banned" - Jackie.

Contract and pay issues

One of the striking features of this research was that workers often had no written contract or this was only available on-line and was difficult to access. Many did not know whether they worked for an agency, for an employer or were classed as self-employed. However classification as we have seen is crucial in terms of pay, rights and obligations.

"I didn't get a written contract and it's zero-hours. I didn't get a contract and don't have a wage slip. I don't know if I'm paid the same as the permanent employees and the same holidays? I don't know – not without challenging. I don't have paid holidays" - Jim.

"I've been working a couple of months on a zero hour's contract but not got a written contract yet. I am sometimes called in for a shift with 24 hours notice. I'm not sure about payslips, they're sent by email I believe but I'm not sure and don't know about deductions" - Harry.

It is also difficult to compare terms and conditions with others who work for the same firm:

"One job – there were about 2 or 3 different contracts people were on – some agency, some sub-contracted from another firm. The best were the full-time contracts – more pay and 20 weeks sick pay" - Rick.

A significant part of the Law Centre work involves helping people to distinguish what their employment status is:

"One sales worker was deemed self-employed even though she wore a company uniform and was trained to use a company script – this points to being a company employee – not self employed. If

there is a high degree of control over your work – then this suggest you are an employee. The sales woman was being sexually harassed at work. However as a self employed person she cannot claim harassment under the Equalities Act 2010. So firstly she had to prove she was an employee and had been made to sign a contract as self employed. This happens a lot. Preliminary hearings at tribunals etc often are to establish that people are employed not self employed" - Andrew, Derbyshire Law Centre.

One agency agreed that self-employment was bad news for many workers:

"Self-employment – the scheme is often morally wrong, these schemes are to avoid tax - the effect is that workers need extra money to pay for things like sickness" - Stewart, Better Staffing Agency.

Sometimes workers signed contracts reluctantly – it was that or no job and sanctions:

"The company was a training partnership provider and it was a 1 year contract. The payslip 'took the mick' – at first I refused to sign the contract because it was so vague but I was given an ultimatum – no sign = no job" - Kath.

"On the bank holidays the agencies didn't pay you – another way of robbing you. All the terms and conditions and rights you had to find out about yourself – I wasn't told upfront – so I had to find out about bank holidays and put in for a holiday then – to get paid. Otherwise I wouldn't be told and would lose out" - Dave.

People sign all sorts of things when they first start work without checking. Andrew from Derbyshire Law Centre has seen a lot of issues amongst care workers on zero-hours contracts and also those on flexible shift work:

"It's often difficult to distinguish what the contract says or what the entitlement is to minimum hours. On-line contracts and payslips are a big problem for many workers – they can't access it. Often there's no contract or access to one and it's really difficult to identify the relationship between the employee and contractor"

"Often the pay slips are on-line only and so you can't necessarily check easily what the deductions etc are. The young 'uns don't know about complaining about charges etc Agencies sometimes pay for breaks but sometimes not. If you get on with the timesheet boss then you are paid for breaks – others are twats, or if your face doesn't fit its deductions for a 20 min break here, 20 mins there" - Michael.

Healthcare agencies and care service providers reduce labour costs and exact control over migrant healthcare workers by offering accommodation with fees deducted directly from salaries and ensuring staff are available 24/7 for the agency. It is also common practice to make deductions like National Insurance even when they are informally employed and deduct emergency tax until this is exposed and complaints ensue.

Maroukis, 2015

Kath had a struggle to establish her status:

"They kept on trying to put me on an apprenticeship wage, saying I was an apprentice. I said NO, I am employed full-time and am doing the work just like anyone else. After a year they said quit or go on as an apprentice. I quit. It was so crap" - Kath.

Pay slips can also be confusing and with unexplained deductions made and lots of inconsistencies between different agencies:

"My payslip was on-line and very confusing. I didn't understand the deductions for National Insurance and tax" - Cheryl.

"There's massive inconsistency – with some agencies I got holiday forms, with others no. I got nowhere near the same pay and conditions as permanent staff – usually about £1.50 difference, sometimes £4" - Bob.

"The payslip was clear except they took 45 minutes off for breaks – whether I had them or not" - Rick.

"In the 1st company I was paid a standard travel time regardless of distance and so could make some extra money. The 2nd company didn't pay for travel. I found myself in a bad situation – my bike was stolen and I had to go by bus. I didn't even earn enough to pay for my public transport and had to get a loan from the company. I was expecting a payout for my stolen bike and had to delay paying rent. So the council took me to court and I had to pay £250 court costs. I decided ENOUGH – I left my home and the job" - Dennis, ex-care worker.

However, the worst case scenario's involved workers who were not paid at all:

"I've worked for agencies and not got paid. Some try and charge you just to be paid. Agencies are either those that pay in-house wages – these are usually minimum wage. Some pay out of house wages – so via a third party. The latter often advertise e.g. £10 an hour and sound great but then try and sneak in service charges and admin fees and you end up near or less than the minimum. Often they're sneaky and put the charges between the NI and tax lines and so it looks like some sort of official government charge" - Michael, labourer.

Adnan's story is similar to Wayne's experiences:

"I have worked for a number of agencies always short term basis and on zero-hours contract. At one agency I was called in for work along with others. We had one 15 minute break. I got no payment, they said it was only induction. I have been paid for induction in the past. I know they took on one person because someone I know was the one person who got offered work. I don't think is it right to make you work without payment" - Adnan.

Amy from Star staffing said these work placements and induction were an extension to the interview process with a work trial enabling the employer to find reliable workers with a good work ethic, the right attitude and those prepared to undertake training. She also bizarrely proposed that with an unpaid work trial: 'this is to benefit the candidate more than the company'.

Jim sums up:

"I'm not respected and I'm undervalued"

Case study: Rectico and Star staffing - Wayne's story

"A couple of weeks ago they (Star staffing) rang me and offered me a work placement which could lead to a job. It was with Rectico. It is a small company maybe 60 employees. I went along, there were about 15 other people from the dole. We were told we needed to wear boots. We were told the shifts were 10 am until 6pm.

On the first day I turned up but then sat in the canteen for an hour then got sent away. I got told to go away and come back the next day. They said come along and see how you get on and we will be taking on workers. They called it induction. On the second day I was put to work operating a machine. I worked for four hours and expected to be paid. It was straightforward work but even so I was given no training and no health and safety information. There was one guy who was helpful. There was no paperwork I didn't sign anything or receive anything. After the four hour shift we were sent home

The next day I got a phone call to say I was not wanted again and that there would be no payment as it was only induction. Everyone who was there in the group expected to be paid, I asked the other people they said yes we will be paid. The company said they only wanted people with experience and so weren't going to offer me work. I feel that's unfair they should have said so in the beginning because they knew I had no experience. I went with a very positive attitude. Now I feel let down".

Wayne

Training

When starting a new job one basic hope is to receive training for that job especially with an induction and Health and Safety training. It is also hoped that workers can gain experience and achieve progression at work. Some reported receiving training, for example Callum who was hoping to be a certified events security worker:

"The Job Centre set me up with the training - Health and Safety, procedures, evacuation, techniques to use when people are coming at you" - Callam.

Sam also was given paid training:

"I got training about goods handling – it was paid"

However for many training was either not forthcoming, was limited or involved study at their own expense:

"I've had no training" - Jim.

"I received no training – just a couple of hours sat with someone" - Cheryl.

"Yes I got training at the pub – it wasn't paid" - Tony.

"There's not very much training given on a zero hour's contract job" - Jackie.

"No [training] but I have my own forklift certificates" - Josh.

"I had to complete unpaid training before I started work as a zero-hour's contract care worker" - Danny.

Dennis received training from the care sector agency but found the training 'grotesque':

"The training – it was in an office next to the company. Some of it was appalling. Older people were described in terms to scare you e.g. if you go to the shop for them and you injure yourself you will be sacked. In a fire situation don't help the person out – its not safe. If the person broke their leg whilst you were helping them away from the fire, they might sue you. If you are working with someone who does more than the contract says then you must report them even if they're your friend. It was a grotesque form of training – all to protect backs and maximise profit" - Dennis, ex-care worker.

Training is also about progression and Harry soon realised that this was unlikely:

"I'm paid above the minimum wage which is good but I can't progress from pot washing in the kitchen – there's no other shifts" - Harry.

Life, health and well-being

A rise in the use of zero-hours contracts could be contributing to poor mental health of especially young people a report from UCL Institute of Education suggested. Researchers found that those employed on zero-hours contracts were 50% more likely to report poor mental health than those in more secure employment.



get very short notice of long shifts which affected family life” - Sam.

The unpredictability of the hours and the work caused a number of problems when trying to fit it in with family and other life:

“I can’t plan my time off and miss seeing my children and grandchildren” - Lisa.

“Was OK when I was single – now would be a problem. It’s good that you can jump into it and you get a quick response. Having kids though – it’s bad; you need stability” - Josh.

“Good things were that it was a local job – I can’t afford a car and cycle everywhere (although each time I got this job I’d buy a car but then would have to give it up when the work dried up) – I could never plan stuff, never settle in” - Dave.

The inability to plan and settle in described by Dave can lead to anxiety and stress:

“I want full-time hours. It makes me anxious not having the security of full-time hours” - Harry.

“I didn’t know whether I was coming or going [with the agency], I had mental health problems and it affected me that way” - Jackie.

Whilst at work it is important that workers are safe. For agency workers this can be an issue:

“It is very clear that Agency staff are not treated as well by companies as permanent staff in terms of Health and Safety; this can lead to doing dangerous tasks (in my case involving chemicals and plastics) in order to avoid a sanction” - Bob.

Those with a precarious relationship to the labour market are more at risk of poor mental and physical health. They found that the worry of having no work or irregular work triggers physical symptoms of stress – including chest pain, headaches and muscle tension (UCL study, 2017; IOE, 2017). Other research has noted the negative impact of underemployment – a feature of agency and zero-hours contracts - on health and well-being. In particular health and well-being suffer if there is a mismatch with the hours you need for living securely and providing for dependents and what you are able to work (Kamerāde and Richardson, 2017). This mismatch can also involve working too many hours:

“I’m working too many hours, there’s not enough left over for myself. I can’t plan my time off and the work doesn’t fit in with my family life” (Jim)

“Family life was disrupted – with shifts and sleep-ins then I was sometimes away from home 3 days at a time” - Danny.

However for others the issue was too few hours:

“I couldn’t get a reasonable standard of living – I didn’t get enough hours. It was good I had weekends off and plan activities with the kids but then in the week I could

Raising Health and Safety issues can be discouraged:

"One thing that gets me is Health and Safety – it's the LAW that employers should provide e.g. hard hats, boots, high vis jackets etc. I have NEVER seen an advert that says this is provided. Usually say 'Must have your own PPE' (personal protection equipment) – this is against the law. I've argued before about Health and Safety – in one place used needles were just put in a milk bottle and chucked in the skip. People were throwing stuff out of windows etc I complained to the agency and guess what - I was laid off and didn't hear a peep about any work for 3 months – coincidence or what!?! Then it was a busy time, so I started getting calls again" - Michael.

From the agencies perspective we were told about the hassle of regulatory demands:

"There is a health and safety industry out there that is lobbying for increased certification. More and more firms want certificates checked and CRB checks provided by the agency or temp worker" - Ollie, Blue Sky placements.

The Agency Worker Regulations were 'the bane of our lives' but things have settled down" - Stewart, Better Staffing Agency.

Case study: Care sector - Dennis

"Dennis is an ex-agency zero hours contract care worker. He has a severely disabled son and life was a big struggle to get what his son was entitled to. So he decided to give something back and qualified as a psychiatric nurse. Dennis became the main carer for his son but then his son started to have an independent living arrangement so it was time for Dennis to go back to work.

The Job Centre saw his background and suggested work through care agencies. There is a context to Dennis's story – the Council were facing millions of pounds of cuts. In particular one-third of the adult social care budget was cut and yet the level of care need was increasing.

The most drastic cuts were amongst adult care especially the elderly. It appeared to Dennis that care agencies were replacing the direct involvement of council contracted care work. Contracts were given to 53 private agencies who were all competing for individual care package work. It was obvious how money was being saved. Dennis said: 'It was a horrific experience, almost surreal. As a worker my experiences pushed me out of care work. It was a case of self-preservation, I had to pull out. The price of care is too high. I worked for 2 agencies – you can only call them unscrupulous.

A few things alarmed me. The rotas were given out. Older people purchase their care by time e.g. a bath is allocated $\frac{3}{4}$ hour. You pay for that time not for a bath. I travelled from client to client by motorbike. My rota said a bath call from 09:00-09:45, then travel to the next client (15 mins). Next client 09:30 ???!!!

What they had decided using information from 'expert' workers is that a bath didn't need $\frac{3}{4}$ hour – however the older person still paid for $\frac{3}{4}$ hour time – the company was cutting time and stealing time and money. Things started to get tighter, there were more bids, more contracts, the company wanted

continued

more work from the same staff.

The manager called us to a meeting – he started shouting – there's lots of work, you must work harder, you must remember that you're all dispensable. They had an agreement with the Job Centre to get a supply of workers and so he was telling us it would be easy to replace us. The turnover was incredible – people were coming and going. You got young new people promoted to senior and then were put under so much pressure – but then they'd leave because they couldn't cope. It was a delinquent arrangement.

So I moved to another company – this one was committed and said that not less than an hour per client would be spent. However, ultimately the same things started to happen. The council pressurised the company to take on more work because of the bankruptcy to one of the other care firms. They were desperate and in the end the company started to do ½ hour slots rather than the hourly ones and never went back to their previous standards. I now work in a hotel (zero hours) and have a Saturday job in a café”.

Dennis, ex-care worker.

Sick pay could be an issue:

“Supposedly there was sick pay but if you were sick they would phone you up – ‘if you don’t come back you’re fired’ It was a piss take, a shocking company” - Kath.

“5 weeks ago I found out I had cancer and have had my kidney removed. I’m going back for various hospital appointments to decide on the next course of action – chemo or whatever. The doc signed me off straight away for 3 months and said – come back if you need more. I went to the agency and asked about sick pay. The guy was pretty good and said, yes he thought I’d get sick pay but would have to check with Head Office. I went back when my pay didn’t appear on Friday. He said yes I’m pretty certain you’re entitled and will get it on Friday and backdated. I didn’t get it. The guy said it was Head Office delaying. He said he got it sorted and so I should have it backdated THIS Friday. I know I’ll have to go back to the law centre if it’s not there. I should have claimed Job Seekers Allowance at the Job Centre. I’ve not had my money for weeks now” - Rick.

Studies about agency working suggest people going into work when sick and infringing Health and Safety regulations (Maroukis, 2015):

“if we were late or sick, a mark would go on our record. We were told that if we were sick, it would go on our record” - Ben.

“I’m never treated sympathetically by agencies when I’m sick” - Len.

“I had an accident on my bike going to work – it injured me and broke my bike. My contract was terminated for not producing a doctor’s note when ill” - Damian.

Andrew (Derbyshire Law Centre) emphasised how agency and zero hours are strongly linked to lots of other issues, in particular housing. He spoke about the increase in people making enquiries because agency work and zero-hours contracts often means very low pay and precarious pay and so leads to a wait for supporting benefits and therefore to threats of losing your home. For others survival meant living with parents:

“I am really desperate to get work. It is hard at my age because my family say I should be working and they can’t afford to support me anymore. I am worried I will become homeless” - Adnan.

"I still live with my parents so living is reasonable – not if I had my own place to live though" - Harry.

Many TAW workers struggled with maintaining a decent standard of living:

"My standard of living was not good. I found it difficult to make ends meet" - Ben.

Survival strategy can involve accessing food banks when working.

"I don't have a good standard of living working for agencies. I have to use food banks, charities and the support of friends and family" - Bob.

A study about use of food banks uncovered a number of crisis drivers: 'drivers include no income through being sick, facing benefit sanctions and working precariously such as on zero-hours contracts with not enough work offered to make ends meet' (Beatty et al, 2017). Colin from DUWC agrees:

"Workers taking zero hours work to avoid the threat of sanctions could be trapped in abject poverty when hours worked were cut and leaving the job may result in a sanction".

"As a care worker I was always in debt. I was caring for others but ended up in poverty" - Dennis, ex-care worker.

Other research discussed ways to safeguard against recurrent poverty: 'securing a job with decent benefits and prospects provided protection against 'recurrent poverty' rather than moving from unemployment to the 'periphery' of the labour market where jobs are often temporary and unstable' (Tomlinson and Walker, 2010).

Collective struggle

It is possible to develop union organisation and the impact can be dramatic. A strike by New Zealand fast food workers led to the outlawing of zero-hours contracts – employers are no longer allowed to 'require workers to be available for work while not guaranteeing it'. Unite believes the UK should follow the lead of legislators in New Zealand and bring forward a package of measures to regulate precarious and insecure work.

In the summer of 2016 there was an unofficial strike by Deliveroo food deliverers followed by workers from UberEats walking out and storming Uber HQ. These included

many migrant workers. In April 2016, 40 fast food workers dressed as 'evil Ronald McDonalds' were part of an international day of action and demonstrated in Glasgow. They held a 'precarious work picnic' with 'unhappy meals'. Many new union members were recruited by the Bakers, Food and Allied Workers Union with demands for £10 an hour, guaranteed contracts and respect at work. (Sherry, 2017:74).

'Let's learn from New Zealand'
Len McClusky, Unite General Secretary

As a result of the Sports Direct campaigning, McDonalds have been trialling fixed hours contracts and later this year contract options of a guaranteed 4, 15 or 30 hours a week will be offered to all their workers (Blagg, 2017). An unofficial walk out by a (mainly) migrant workforce at Bart's Hospital Trust happened after cleaners found out that the new company owner (Serco) were stopping paid breaks and implementing a 10 year 1% pay deal. After two walk outs and canteen meetings breaks were reinstated. Unite are to ballot on pay (Sherry, 2017). 'We're cleaners, not dirt' said workers on their 5th day of the biggest cleaners' strike in British history (Whitehead, 2017). The Unite workers – employed by agencies and on zero-hours contracts – are demanding a 30 pence an hour increase.

"If you fight you may lose, if you don't fight you will lose."

Bob Crow (RMT)

Unite in its evidence to the Business, Innovation and Skills Committee stated that 'we are committed to workers having the right to join a trade union of their choice and for their terms and working conditions to be the subject of free discussions with their employers. We recognise that employment agencies present a serious challenge to that free workplace industrial relations. We are also persuaded that zero hours contracts work in favour of the employer. They are usually employed as an act of compulsion on the unemployed as a conduit into work or benefits. The balance of force rests with the employer/agency and the worker has little or no choice. This is unlikely to change without a change of employment law and of Government' (Unite, 2016). The drive for unionisation has been at the heart of collective action:

"Campaigning needs to be multi-dimensional. There are many pressure points in the system of employment legislation and we need to use them all. There are many opportunities with local trade union and community organisations to engage in campaigning. They need to be taken and we need to learn from each other".
Malcolm, North Derbyshire Unite Community branch.

There is much to be done. In their evidence to the House of Commons Unite the Union recommended an extension of the remit of the Gangmasters Licencing Authority to strengthen the regulatory framework. It further referred to the regulation and restrictions covering the use of agency workers across the EU. There were recommendations covering zero hours and short hour's contracts and the value of adequate and appropriate trade union representation (Unite, 2016). The 'British way' of the Taylor report (2017) recommended a baseline of protection, routes to progression and rights and entitlements for self-employed people. However the tenet of the report remained in the dream world of 'genuine two way flexibility [that] can provide opportunities for those who may not be able to work in more conventional ways' and stressed 'not national regulation' but 'strong corporate governance' (Taylor, 2017:9). The TAW and zero-hours contract workers we interviewed will not be holding their breath in anticipation of positive change from this report.

Other reports have made similar demands but with more ambitious ways to ensure achievement including legislation and trade union involvement. The TUC 'Great Jobs Agenda' suggests there should be: a voice at work; learning and progression; regular hours; fair treatment and respect; healthy workplaces (TUC, 2017). From the health

and zero-hours contracts study it is clear that there must be recognition of the important relationship between health and work. Better quality jobs must be offered which enhance rather than damage mental health and well-being (UCL study, 2017). Zero-hours contracts, short term contracts and mutations of self-employment are wholly exploitative work practices and there are calls for clear coding for 'gig' economy workers of 'self-employed', 'workers' or 'employees' (Field and Forsey, 2016; Judge and Tomlinson, 2016).

Unite (2017) in its submission to the Taylor Review stressed that no worker should be stripped of their rights because they do not work in a traditional workplace. Unite research has shown that workplace organisation improves job quality which can lead to higher productivity (Hoque et al, 2017). In addition having a trade union voice often leads to reporting of a positive experience in terms of being treated fairly and workers feeling in control of their working environment. Trade unions and collective bargaining can also help reduce inequality (Unite, 2017).

With this in mind, reflecting on the evidence provided in this research report we endorse the following recommended actions from Unite and others:

Recommended Actions

- A collective voice and trade union representation. Employers should be required to agree collective and independent consultation arrangements when requested by a recognised trade union or by 5 workers in non-unionised workplaces. Trade unions should have a right to access workplaces. All workers should have the right to be represented by unions in the workplace.

- Ban zero-hours contracts and end uncertainty around the number of hours working.
- The use of agency workers should be limited to the occasions that they are necessary and for short periods.
- There should be compulsory collective bargaining for agencies and for companies recruiting from abroad.
- End bogus self-employment. Change the law to give people a default right to qualify for all employment rights unless an employer can demonstrate they are genuinely self-employed (O'Grady, cited in Allen, 2017) - extend existing rights to all those in work, not only those who qualify for 'employee' status.
- There should be from day-one written statements setting out pay and conditions, including expected hours of work, for all workers.
- No-one should have to sign up for a temporary employment agency in order to claim benefits.
- End age discrimination in the National Minimum Wage with one rate from aged 18 years and @ £10 as a minimum per hour.
- Abolish sanctions for non compliance with 'Claimant Commitments'
- Work should be safe and secure, including guaranteed hours. Workers should be able to expect stable hours or permanent contracts.
- Training, development and career opportunities should be provided.

Conclusion

This story must end with Sports Direct and what has been achieved so far through campaigning and collective action. The campaign included developing local, national and international coalitions and lobbying of MP's that resulted in HMRC investigations, a summons of CEO billionaire Mike Ashley to address a parliamentary select committee and Sports Direct agreeing to a review into working practices and corporate governance.

Evidence has been submitted by Unite to this review and their campaigning has also led to a wage increase and minimum wage failsafe policy, changes in post shift searching policy (monitored and random searches meaning for the vast majority exiting the warehouse now takes 5 minutes), grievance and disciplinary policies as per the permanent and direct employees, the 'six strikes' policy is gone and there is an established Unite branch with officers drawn from a variety of nationalities found amongst the workforce including from the UK, Poland and Slovakia.

In this report we have highlighted the growth in insecure work, particularly poor experiences of working for agencies and on zero-hours contracts. Employment practices are questionable and at times draconian creating unhealthy work arrangements and

a climate of punishment and fear. Contracts are confusing with bogus self-employment status utilised along with other means to circumvent employer and agency obligations. Permanent and self-employed agency workers have tended to be missing from accounts of TAW (Judge and Tomlinson, 2016). This flexibility benefits employers and profit rather than claimants and workers. Frances O'Grady from the TUC suggests that 'Insecure work is costing the public coffers about £4 billion a year in lost tax and higher benefits' (Allen, 2017).

We started with the story of Sports Direct - it is a story that has not ended. The 'independent review' promised, involved it being carried out by company solicitors who have not engaged with the Unite branch. Also at the 2016 shareholders meeting it was agreed that guaranteed hours contracts should be offered as an option rather than the common practice of offering zero-hours contracts - largely used in the Sports Direct retail arm (stores). Research is being carried out with a strong suspicion that workers do not know of the option to take up guaranteed hours. If this is the case then this will be raised again at the next AGM in September 2017.

The struggle and the story continue.



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The law and temporary agency work

Recruitment agencies cannot charge a fee for finding work but can charge for certain services such as CV writing and training – although they must give full written details of these charges and cannot make using these services a condition of finding work. The agency must give written terms of employment which can't be changed without giving notice (gov.uk, 2016). However apart from the licensing of agencies by the 1973 Employment Agencies Act and the 2003 Employment Agencies and Employment Businesses regulations there has been few requirements placed on agencies which have often fallen outside of the scope of much employment legislation (Forde and Slater, 2014).

In 2002 the European Commission set out a directive on agency working built on the principle of non-discrimination. However it was opposed by the UK government on the basis that it threatened the 'balance between flexibility and protection' (Forde and Slater, 2014:12). In October 2011 the European Union Agency Workers Regulations came into force offering new entitlements to agency workers.

On day one agency workers should be given access to workplace facilities such as the canteen, car parking or transport services or childcare amenities. After 12 weeks working for the same employer (continuous employment with a client firm) then there is a commitment to provide equal treatment to staff on open ended contracts. This means equal pay, paid annual leave, equal rest breaks, automatic pension enrolment and paid time off for attending ante-natal appointments (Forde and Slater, 2014; BIS, 2011). However in Britain these entitlements do not include access to

training (Forde and Slater, 2014). The 12 week period starts at zero again if workers get a new job in a different workplace, have a break of more than 6 weeks or stay at the same workplace in a new role that is 'substantively different' for example has different pay and uses different skills (gov.uk, 2016).

However the Trades Union Congress (TUC) has noted agencies and employers attempting to circumvent these regulations by invoking the so-called Swedish Derogation – Payment Between Assignments (SD-PBA) clause. Under SD-PBA agencies employ workers directly so they are employees of the agency not TAWers. The agency has to guarantee pay for at least 4 weeks during the time that they can't find work for the employee (Churchard, 2013). Workers though forfeit equal pay and conditions offered by the AWR and so are often vastly out of pocket. Under SD-PBA pay between assignments must be at least half received when at the last work assignment and cannot be below the minimum wage (Forde and Slater, 2014). However few agency workers have the choice of AWR or SD-PBA contracts explained to them and there is little knowledge of these contracts and rights amongst workers. Workers are not always told that having an SD-PBA contract means giving up entitlement to equal pay (Forde and Slater, 2014). Employees on SD-PBA contracts have to be available for work and there is evidence that agencies are offering work assignments many miles away from workers homes (Forde and Slater, 2014). In 2013 it was found that SD-PBA contracts were used extensively in UK call centres, food production and logistics firms and use of these contracts had increased by 15% since to recession. As many as 1 in 6 agency workers are on SD-PBA contracts (Churchard, 2013). Staff often fall under the radar of AWR (Maroukis, 2015).

Data source

To analyse temporary agency work in the UK this research report used data from the UK Annual Population Surveys (APS) (ONS. Social Survey Division, 2017). The APS combines data from two waves of the main Labour Force Survey with data from local sample boosts in England, Wales and Scotland. Data are collected through face-to-face and telephone interviews with a multi-stage stratified random sample of approximately 150,000 households and around 320,000 individuals (ONS, 2012). This report employs the APS data from 2010 to 2016. The cross-sectional analyses of the prevalence and working conditions of TAW were based on APS March 2016/April 2017 data. The longitudinal analysis of the trends in TAW was based on annual March/April APS data sets for the period from 2010 to 2016.

In 2016/2017, the APS data consisted of a nationally representative sample of 108,099 employed adults (aged 16+) in the UK, 51.53 % of them were female. The average age of the respondents was 42.17 (SD 13.35). The average response rate for the APS is approximately 55 % (ONS, 2011, p.21). Therefore, to reflect the size and composition of the general population of adults in the UK by correcting for systematic non-response and sample design, all analyses presented in this paper were weighted the person weight available in the dataset.





Agency workers and zero hours - the story of hidden exploitation

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