

The Impact of the UK Temporary Employment
Industry in Assisting Agency Workers
since the Year 2000

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By

Dr. Simon Toms

**CAMBRIDGE
SCHOLARS**

P U B L I S H I N G

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CHAPTER ONE

OVERVIEW OF THE RESEARCH

1.1 A Brief Introduction to Agency Working

In early 2009, reports emerged over the loss of employment for a substantial number of workers from BMW's Mini Cowley plant in Oxford (BBC, 2009a). Further scrutiny revealed the sacked employees consisted of eight hundred and fifty agency workers, sparking a national debate that revolved around the degree of security these workers were afforded in their positions of employment. Industry officials and academic researchers had raised concerns regarding the precarious nature of agency work for several years, but the nature of how the news was given to workers sparked mainstream public interest, drawing the media spotlight and ensuring the incident became a national news story. Bernard Moss, from the union 'Unite', reported that workers were told one hour from the end of their shift that they had been laid off with immediate effect. This led to angry scenes where workers threw fruit at union leaders, claiming that they felt betrayed (BBC, 2009a).

Temporary agency work has been a central topic of employment discourse in the last few years, with a variety of research investigating the implications at individual, organisational, and national levels (Biggs, Burchell, & Millmore, 2006; Druker & Stanworth, 2004; Forde & Slater, 2006; Nienhüser & Matiaske, 2006). During this time, studies have forwarded a variety of conflicting definitional, demographical, and psychological findings. An extensive level of understanding is required in the area, as recent years have witnessed considerable interest in temporary agency employment. This interest has emerged against a backdrop of rapid growth in this form of working (CIETT, 2000; Forde & Slater, 2006).

Debate between advocates and opponents of the agency employment industry in regards to the individual impact of agency working has existed for years. Henson (1996, p. 4) outlined some of the US industry claims, which included: "...greater scheduling flexibility, varied and satisfying work experiences, skill acquisition and development, access to permanent employment opportunities, and a cornucopia of other supposed monetary

and non monetary rewards". Despite these claims, Henson's (1996) findings indicated that these claims were often unsupported. Interest in this group of workers peaked in 2008, when heated debate throughout Europe culminated with the agreement to adopt the Agency Workers Directive, a contentious piece of legislation that attempts to address the disparities in pay, employment protection, and opportunities. At the time of writing, the Directive is planned to take effect throughout the UK on the 1st of October, 2011. In order to appreciate the issues faced by agency workers, an understanding must be reached regarding the heterogeneity of temporary contracts between countries, psychological and motivational variations between worker groups, and the precarious nature of employment often associated with agency employment.

Research into the employment of agency workers has highlighted several potential problems faced by individuals and their employers, many of which stem from the triangular nature of the contract (Blacklock, 2008; Lavin, 2005; Storrie, 2002), or the potentially negative reactions experienced by agency workers when joining a company on a temporary basis (de Gilder, 2003; Druker & Stanworth, 2004; Hall, 2006). Flexibility is often cited in the literature as a benefit that individuals and organisations can take advantage of, yet this may also translate into a lack of protection for agency workers in terms of their contracts of employment, or their treatment at the hands of the third party organisation. Previous research has indicated a variety of issues that surround the use of agency workers in relation to psychological aspects, including job satisfaction (Biggs & Swailes, 2006; Booth, Fransconi, & Frank, 2002), perceived job security (Allan & Sienko, 1997; Feather & Rauter, 2004), and organisational commitment (de Gilder, 2003; Newton, 1996), although research into the area of agency worker employment has led to confusing and contradictory findings with regard to these problems.

The timing of this study is important for two main reasons. At the time of writing, the recession that began around 2007/8 remains a key concern for organisations in the national and international marketplace. Meeting the demands of clients and customers has become increasingly important as businesses try to stay afloat during financial uncertainty. Agency workers can offer businesses a degree of flexibility that other worker groups are unlikely to match, making their utilisation potentially vital to the employment strategies of companies. Consequently, many regard agency workers as a key component to economic recovery. This claim has been made in light of the increased flexibility and route to permanent employment that agency working can offer business and individuals respectively. As a result, understanding the implications of agency worker

utilisation at an individual and organisational level has never been more important. The second reason relates to the development of legislation labelled the Agency Workers Directive. The Directive has set out several guidelines that will directly impact upon the contractual obligations that organisations must commit to when employing agency staff, and will be a key concern to companies that plan to use agency workers in the future.

1.2 Focus of the Research

The study will investigate the following research questions:

- 1) To what extent have temporary employment agencies provided employment opportunities to vulnerable employment groups since the year 2000?
- 2) How are individuals psychologically affected by working as temporary agency workers, and what are the implications?
- 3) Individual agency workers often interact with several different groups including temporary employment agencies, third party employers, and permanent workers. Are there tensions that exist between these groups, and how do they manifest themselves?
- 4) Recent legislative development has occurred with the adoption of the Agency Workers Directive. What are the implications for individual agency workers and temporary employment agencies?

There is little doubt that one of the key motivators for employers' utilisation of agency workers is that of flexibility, yet advocates of temporary agency employment often claim that this form of working provided similar benefits for individuals who would typically struggle to find employment under more traditional circumstances (Ellingson, Gruys, & Sackett, 1998; Thomas & Berry, 2005). This situation has undoubtedly been exacerbated by the current recession, and the increased risk of redundancy that it can represent. Therefore, the first focus of the research is to establish the degree to which these opportunities have been provided, and whether these opportunities have proved advantageous to their recipients.

Psychological research into agency employment has consisted of a series of studies that have applied a variety of psychological measures. These measures often emerge from research into traditional employment relationships, and are used in an attempt to identify and measure differences between permanent and temporary working situations. Rather than providing clarification, findings have often proven inconsistent and

inconclusive (De Cuyper, de Jong, De Witte, Isaksson, Rigotti, & Schalk, 2008), and the study will focus upon identifying and addressing these discrepancies.

The temporary employment industry contains several groups who interact, including agency workers, the temporary employment agencies they sign with, the third party employers that they are assigned to, and the permanent staff that work alongside them. Research into the various interactions that occur between each of these parties has been scarce, and the third focus of the study will address this gap by exploring these interactions and the potential tensions that may result. This will be achieved by engaging representatives from each of these groups, enabling the study to consider the variety of perspectives associated with the employment of agency workers. One such issue at the time of writing is the Agency Workers Directive, set to take effect on the 1st of October, 2011. The timing of the study allows it to gauge the reaction to the planned implementation from an organisational and individual point of view.

1.3 The Assumptions of the Study

As the underlying epistemology of the current study, constructivism differs a great deal from the positivist and realist approaches that are dominant in the natural sciences. Realist approaches believe that the structure in the world is independent of human conceptual abilities, whilst an anti-realist approach like constructivism would consider that such claims are inconsistent, at least in part because there is no way they can be made without using concepts from a human conceptual scheme (Garnham & Oakhill, 1994). Constructivism describes the individual human subject engaging with others in the world and making sense of them (Crotty, 2003), resulting in a primarily individualistic constructionist understanding.

In contrast to the hypostudy-driven methods of investigation that are central to many previous studies into the employment of agency workers, the current study will focus upon several open-ended research questions. As a result, the study's constructivist epistemology influences the entire study, from the aims of the research questions, the methods of gathering data, the techniques of analysing the information, and the inferences made by any resultant findings. Interpretative Phenomenological Analysis (IPA) is the key theoretical perspective that underlies the gathering and analysis of data.

IPA represents the study's predominant theoretical perspective, and is strongly rooted in Constructivism due to its focus upon establishing how

individuals make sense of their experiences (Smith, Flowers, & Larkin, 2009). This approach is manifested in this study's use of semi-structured interviews. The participant's recollection of phenomena is integral to the practice of IPA, which relates to arguably the greatest influence upon the approach, that of phenomenology.

Phenomenology is the philosophical approach to the study of experience, and its underlying motive argues that by setting aside any prevailing understanding of these phenomena and revisiting the experience, new meaning may emerge (Crotty, 2003). The founder of phenomenology as a philosophy was Edmund Husserl, whose criticism of the tendency of psychologists to turn away from concrete experience led to the famous 'Husserlian' slogan: return to the things themselves, as experienced (Ashworth, 2008). The focus upon an individual's experience strongly links phenomenology to constructivism, as it requires us to engage with phenomena in our world and make sense of them directly and immediately (Crotty, 2003). By relying upon the participant's interpretation of past experiences, IPA draws upon the second major influence of hermeneutics.

Hermeneutics can be broadly defined as the philosophy of interpretation (Crotty, 2003), and originates from the interpretation of texts. The data that researchers have applied hermeneutic analysis to has since expanded to include unwritten sources, comprising of human practices, human events, and human situations, in an attempt to 'read' these in ways that bring understanding (Smith et al, 2009). The influence of the approach is further increased by the existence of a double hermeneutic, which occurs during the analysis of data gathered during interviews with participants. The interviewee's 'meaning-making' is first-order and the researcher's 'sense-making' is second-order, ensuring that the original experience is interpreted twice.

The adoption of hermeneutic analysis emphasises my influence as the researcher, which is further increased by the incorporation of diary extracts recorded during my time as a temporary agency worker. The role of quantitative researchers can differ significantly to those in qualitative studies, as efforts are made to increase objectivity by reducing the degree of influence the researcher exerts upon their participants, data gathering, and analyses. Burr (2003, p. 152) has previously questioned these efforts, arguing that: "No human being can step outside of their humanity and view the world from no position at all, which is what the idea of objectivity suggests, and this is just as true of scientists as everyone else".

The third major influence upon IPA is Idiography, which is concerned with the particular and operates at two levels: the commitment in the sense of detail and analysis, and the commitment to understanding how a

particular experiential phenomenon has been understood from the perspective of particular people in a particular context (Smith et al, 2009). This conflicts with the 'Nomothetic' approach that embodies the majority of research in the area of agency working, as such studies are more concerned with making claims at a large group or population level and establishing general laws of human behaviour. In contrast, the current study will analyse diary extracts of the researcher and detailed interview data from individuals who reside in a variety of different positions throughout the agency employment industry.

1.4. The Structure of the Study

Chapter two introduces the reader to the category of temporary workers known as agency workers, before considering the triangular contract synonymous with agency worker employment. The contract has been cited as the source of several difficulties, and these will be split into the legal standing of agency workers, the increased vulnerability to economic fluctuation, and exposure to sub-standard working conditions. The chapter continues by providing the reader with a statistical understanding of the agency employment industry by exploring several quantitative sources of data that have attempted to establish the numbers of agency workers in the UK. Conflicting findings are prominent throughout the study, and are represented by the varying estimates cited by demographic research. The chapter concludes by providing an economic context of agency worker utilisation by exploring the financial incentives that this form of employment can provide at an individual and organisational level.

Whilst chapter two introduced the reader to the triangular contract, chapter three will explore the various relationships which can form between the main parties as a result. These interactions have often been overlooked by research, yet may prove central to an individual's experience of agency employment. Several studies have considered the influence that agency workers can have upon the perceptions of pre-existing permanent workers, and findings will be split between the variables of job satisfaction, organisational commitment, and job security. The extent of benefits that agency working can provide individuals is central to the study, and these will be considered in relation to the role the agency employment industry can play in the current global recession, the opportunities for transition into permanent roles, and the levels of training that agency workers encounter.

Chapter four will provide a context of agency worker utilisation by exploring the most frequently cited benefit at an individual and organisational level; that of flexibility. Possessing a flexible workforce has become a key aim for organisations attempting to function in the modern day world of work, and temporary employment agencies represent a potential ally in achieving this fluidity. The chapter begins by tracing the origins of the flexible workforce and its emergence as a desirable workforce trait. The reaction of researchers and social commentators to its increased popularity will also be explored. The agency employment industry has been a significant factor in the development of flexible working arrangements, and the benefits that these arrangements represent will be evaluated from an individual perspective. The chapter will conclude by exploring the recent debate surrounding the emergence and adoption of the Agency Workers Directive, before considering the varying claims about the predicted impact that legislative change will have upon organisations and individuals in the UK.

Chapter five marks the beginning of the study's analysis of the psychological literature relating to the agency employment industry. Discrepancies between findings occur throughout research into agency working, and the chapter will begin by forwarding one of the potential causes of this difficulty. Several psychological concepts have received the greatest attention from researchers, and chapter five will continue by focussing upon the variables of job satisfaction and job security. The antecedents, findings, and implications will be considered for each variable, and the concept of the psychological contract will also be explored in relation to agency workers. A similar approach will also be adopted in the following chapter, which will begin by highlighting the difficulties that have stemmed from the triangular contract of employment, and continue by focussing upon the variables of organisational commitment and perceived organisational support.

When reviewing previous research into the agency employment industry, several obstacles and difficulties become apparent. Chapter seven will serve to outline a research method that will attempt to address these problems, beginning with the epistemological and theoretical perspectives of the study. The dominance of quantitative method in the area has been called into question throughout the study, and the underpinnings of the research method have limited the current study's exposure to these concerns. The chapter will continue by summarising the data gathering process, which consisted of semi-structured interviews and ethnographic analysis, before evaluating the strengths and weaknesses of these

techniques. The chapter concludes with a reflexive analysis that explores my influence upon the study in the role of researcher.

A recurring theme that emerged when analysing the psychological literature into agency worker utilisation was the motives of individuals, as well as their perceptions of what their time in agency employment represented. The significance that previous researchers have placed upon these motives has varied, whilst others have struggled to process the sheer variety of perceptions through the use of quantitative method. Chapter eight will focus upon these motives by exploring qualitative data from the work diary recorded during my time in agency work, and the semi-structured interviews I completed with representatives from each main party. These have been broadly divided into the individual motives of agency workers, and the motives that companies possess when engaging the services of a temporary employment agency. The chapter concludes by highlighting the importance of motive in the formulation of perceptions that agency workers possess towards their work, and their two 'employers'.

Understanding the benefits that temporary employment agencies can provide is an integral part of the study, and chapter nine begins by exploring the role that recruitment consultants can play in providing opportunities to potentially vulnerable individuals. Success in this role often relies upon establishing relationships and meeting the needs of the worker and third party employer, and the chapter will continue by addressing the lack of research into this area. The relationship that is forged between the temporary employment agency and the client company has also been overlooked by previous studies, and the chapter will conclude by exploring how this relationship is formed and nurtured. Establishing an attachment with organisations can prove integral to the success of the agency as a business, and the priority that agencies may therefore place upon the needs of the company may prove detrimental to the individual agency worker.

The motive and the relationship with the temporary employment agency can prove significant for the perceptions that individuals possess towards agency employment, but the relationship with the third party employer may prove the most influential aspect of an individual's experience. Agency workers may often spend a significant proportion of time on assignment, making interaction with the employer and their staff an influential factor when evaluating an individual's experiences in agency work. After considering the treatment that agency workers experience at the hands of the client company in relation to permanent staff, the chapter will continue by exploring findings from the psychological concepts

outlined in chapters five and six. The chapter will conclude by exploring the interactions between agency workers and the pre-existing permanent workforce present in the third party employer, and how these can affect an individual's experiences of agency employment.

Recent years have witnessed various discussions surrounding the decision to implement legislative change, culminating in December 2008 with the agreed adoption of the Agency Workers Directive. At the time of writing, the UK date of implementation stands as the 1st of October, 2011, yet debate has still raged over the benefits and potential problems that the legislation represents for individuals and organisations alike. Chapter eleven will explore this debate by assessing data gathered during interviews with a variety of different perspectives. Previous research has highlighted the increased costs for third party employers and the potential drop in working opportunities for individual agency workers, and analysis in the chapter will extend to encompass the views of temporary employment agencies and permanent worker counterparts. The perspectives of agencies have received relatively little attention in the literature, despite their significant exposure to any changes outlined in the Directive. The opinions of permanent workers have also been overlooked, yet their reaction could prove a significant factor in the changes encountered by agency workers as a result of the Directive.

The study will conclude with chapter twelve, which will begin by reiterating the four research questions, before outlining the major findings relating to each. The chapter will continue by highlighting the limitations of the research and its approach, before concluding by establishing the most important contributions to knowledge that the study has provided. The study will begin by defining the temporary category of agency workers.

CHAPTER TWO

AGENCY WORKERS, AND THE FINANCIAL IMPLICATIONS OF THEIR UTILISATION

2.1. Introduction

Agency work represents a unique form of employment that has received increased attention in recent years, most notably due to the decision to adopt the Agency Workers Directive that was reached in December 2008. Previous psychological studies into the working experiences of these employees have forwarded a series of findings that have frequently conflicted. Supporters of the agency employment industry have cited increased accessibility and flexibility at an individual and organisational level, yet critics have highlighted disparities in treatment with permanent workers, and questionable employment practices committed by third party employers.

The primary concern of the current chapter is to introduce the reader to the temporary worker category known as agency workers, before placing them in the context of the UK labour force. The term ‘agency worker’ will be defined, as will the characteristics of the contract, which can heavily impact upon the experiences of individuals involved in the industry. Future chapters will consider a variety of implications that have been associated with the agency worker contract, including their legal standing, vulnerability to economic fluctuation, and the working conditions they experience.

The chapter will then ascertain the proportion of the UK workforce that are employed as agency workers, allowing a greater understanding to be reached regarding the number of individuals potentially affected by the issues discussed in later chapters. Government-led attempts to accurately determine the number of agency workers employed in the UK took place after the agreed adoption of the Agency Workers Directive, yet these efforts soon encountered difficulties. Analysis completed by the department for Business, Innovation and Skills (BIS) focussed upon three datasets, which included the Labour Force Survey (LFS), a Recruitment

and Employment Confederation (REC) census, and a Survey of Recruitment Agencies (SORA). The conclusions for each source of data vary considerably, and the chapter will continue by exploring the reasons for the discrepancies.

The current study's quantitative analysis is then extended to include financial aspects of the UK's temporary employment industry, before comparing national levels of temporary worker utilisation between countries residing in the EU. The Agency Workers Directive will become law throughout the European Union no later than December 5th, 2011, making national variations increasingly significant. Explanations are then put forward for the degree of variety that exists between national distributions of temporary labour throughout European countries, and how these distributions may be affected by the impending legislative change known as the Agency Workers Directive.

2.2. Agency Worker Definition

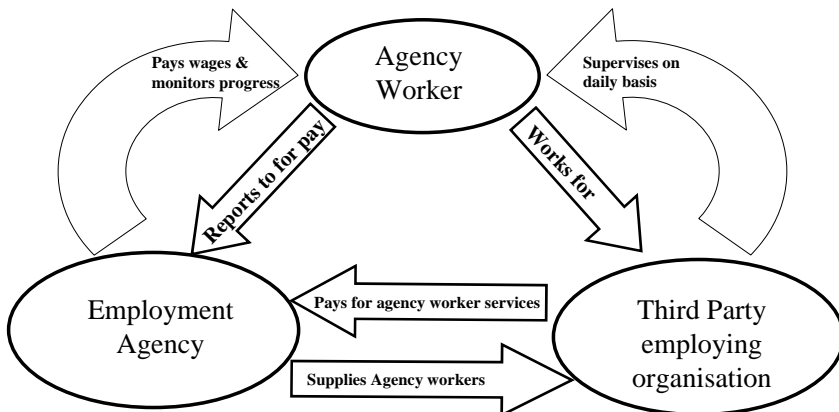
Agency workers are not a new phenomenon, as they have existed in Europe since at least the 18th century, although the modern temporary work industry did not emerge until the late 1940s and early 1950s (Storrie, 2002). Agency workers fall into the category of 'temporary worker' as their tenure within a company is for a limited period of time (Biggs & Swailes, 2006). When looking to apply a definition to this temporary worker category, the unusual contractual agreement that agency workers possess becomes prominent, as agency workers can be defined as individuals: "... who are employed by or have a contract for services with the employment business and who work on assignment with a third party hirer." (BERR, 2009a; p. 15). The hirer, often referred to as the third party employer, user firm, end-user, or client, will approach the temporary employment agency in order to gain access to the individuals that they have on their books, and the length of time these workers spend with the host organisation may vary from one day to several months (Breugal, Olffen, & Olie, 2005). Although short-term contracts of limited duration are often used to characterise temporary agency work, some agency workers have open-ended employment contracts with their agencies (Claes, 2005), and others see it as a long-term career choice (Storrie, 2002). The triangular relationship described in the agency worker definition provided above is not exclusive to the UK, as Nienhüser and Matiaske (2006) found this to be the case in all of the fifteen EU countries that they surveyed. Agency workers in the EU are often much younger than other employees, and whilst the Netherlands has the youngest

workforce of temporary agency workers, the UK probably has the oldest (Storrie, 2002).

2.3. Characteristics of the Contract

The contract of employment utilised in temporary agency work is arguably the most influential feature associated with this form of employment, and represents a central theme of the study. Unlike standard contracts held between employees and employers, the contracts for agency workers include three main parties: the individual agency worker, the temporary employment agency they are signed with, and the third party employer they work for (Claes, 2005; Druker & Stanworth, 2004; Forde & Slater, 2005). Temporary employment agencies range in size, from global corporations, national organisations, and local independent branches (Druker & Stanworth, 2001), and will typically be approached by organisations looking to incorporate agency staff into their company. Agency workers will then work for the third party employer, but will receive payment from their temporary employment agency (Druker & Stanworth, 2001), who will invoice the third party employer for the time that the agency worker has spent with them. The picture for temporary agency workers is complicated by the fact that there are three parties, and six sets of mutual expectations (Druker & Stanworth, 2004). Figure 1 is a pictorial representation of the form that these contracts take.

Figure 2.1. The Triangular Relationship of Agency Working (Biggs & Swailes, 2006; p. 131).



Researchers and interested parties reporting upon the individual effects of agency working will often refer to the temporary, triangular form that the contract takes as the point of origin for many of the reported benefits that this form of employment can offer (CBI, 2008a; Thomas & Berry, 2005), as well as many of the negative connotations (De Cuyper & De Witte, 2007; Forde & Slater, 2005; Guest, 2004), and these will be explored later on in the study. Despite the benefits argued by advocates of the agency employment industry, problems relating to legal protection, economic fluctuation, and working conditions have also been outlined, and these issues will now be discussed in greater detail. It must also be noted that these problems date prior to the adoption of the Agency Workers Directive, which at the time of writing has been set for UK implementation on October 1st 2011. The possible implications the Directive may have upon these areas will be discussed in greater detail in chapter four.

2.3.1. The Legal Standing of Agency Workers

The protection afforded to agency workers is a contentious issue, and has been addressed in recent debates relating to the Agency Workers Directive (TUC, 2007b; CBI, 2008b). A similar piece of legislation labelled the 'Fixed-term Employees' regulations came into force on the 1st of October, 2002. This change in employment law was aimed at preventing discrimination against fixed-term contractors, who represent another temporary worker category. The legislative change was tasked with eliminating the exploitation that arose from successive fixed-term contracts being used in place of open-ended contracts, but excluded agency workers from this protection as a result of their employment status (Green, 2008). As a result of their triangular contract, the employment status of agency workers in the UK is rather complex and often not clear (McMullen, 2008; Storrie, 2002), as it can become uncertain whether the individual is a member of the third party employer or the employment agency that supplied them (Forde & Slater, 2005; Williams, 2004). As well as the complexities that arise from the involvement of two organisations, rather than one, research by Green (2008) has indicated that agency workers have also experienced difficulty when asserting employee rights because their status as employees (as opposed to self-employed) was called into question by some aspects of employment legislation. In UK employment law there is an important distinction between 'employees' and 'workers', and the classification of many agency staff as 'workers' means they are excluded from the entitlement to important employment

rights, like unfair dismissal and redundancy protection, which are only available to 'employees' (TUC, 2007b).

Confusion has existed with regard to who actually employs an agency worker, and previous cases in the UK Court of Appeal have demonstrated this lack of clarification. Warren (2008) highlighted the earlier case of *Dacas v Brook Street Bureau (UK) Ltd*, where confusion arose when the UK Court of Appeal held that, even where there is no express contract between the end-user and the agency worker, there is an implied contract. However, Warren (2008) also cited the case of *James v Greenwich County Council* in early 2008, in which the Court of Appeal clarified that it will rarely be appropriate to imply a contract between the worker and the end-user where the agency arrangements are genuinely and properly documented. The responsibility of the third party employer was further absolved early on in 2008, as a judgement in the Court of Appeal confirmed a prior ruling that agency workers cannot claim an employment relationship between worker and labour user, regardless of the amount of time they may have worked in a particular role (Blacklock, 2008). Research by Lavin (2005) also focused on this issue, stating that agency workers were excluded from the right to claim unfair dismissal compensation and equality of treatment, unless they were an employee of either the agency or the client business. As well as experiencing restricted capacity to challenge the decisions of the client firm, Druker and Stanworth (2001) argued that agency workers are unlikely to be party to collective support by a trade union to the same degree as a permanent employee.

This legal confusion has translated into a variety of possible classifications. Agency workers have been termed employees of: employment agencies, hiring companies, employment businesses, and personal service companies. Agency staff may be more than one, or even none of these, whilst others have even been labelled 'self employed' (House of Commons, 2008). Research by Kalleberg (2000) reported how the emergence of the triangular employment relationship constituted a major challenge to labour law, unionisation, and other aspects of industrial relations systems. This has also resulted in complex legal issues over which organisation is responsible for complying with governmental regulations, and which organisation is liable for accidents and other aspects of the employment relationship (Kalleberg, 2000). Because responsibility is difficult to establish, agency workers are also typically excluded from rights such as those concerning statutory notice, unfair dismissal, redundancy, or a return to work after maternity (Arrowsmith, 2006).

Research in the US by Golden and Appelbaum (1992) also suggested a lack of protection, claiming that, since the compensation level of contingent labour is low relative to that incurred by permanent counterparts, the pressures associated with domestic and international competition may increase the need for staff employed on a non-permanent basis. The individual benefits of increased protection for agency workers appear obvious; however, Lavin (2005) argued that if agency workers did enjoy such protection, the cost of utilisation would rise and the incentive for employing them would fall. This has been one of the key concerns in the debates that ran up to the decision to adopt the Agency Workers Directive made at the end of 2008, and is a contentious issue that will be discussed further in chapter four. Despite the level of criticism levelled at the decision to adopt the Directive, supporters of the legislation maintained that the agreed adoption was a step in the right direction for giving agency staff rights that they have previously been denied. The situation faced by agency workers in the UK contrasts with several other EU member states that possess greater protection for the equivalent group of workers, including Belgium, Spain, and the Netherlands (Arrowsmith, 2006; Storrie, 2002). The level of protection afforded to agency workers has witnessed increased scrutiny in recent years, most notably due to the reaction of companies to the recent global financial difficulties.

2.3.2. Agency Worker Vulnerability to Economic Fluctuation

For many companies, the global financial crisis at the time of writing has translated into varying levels of demand and economic fluctuation for companies to consider, and the limited protection afforded by the agency worker contract has left many agency staff more vulnerable to these fluctuations. Research in the Netherlands found that: “In economic downturns, people with a temporary contract can be laid off without having to be paid premiums to laid off personnel and without the risk of strikes or other types of protests.” (de Gilder, 2003; p. 589). De Gilder (2003) went on to claim that: “In times of economic recovery, organisations that are uncertain about the strength of the recovery may hesitate to employ people on a permanent basis, whereas others can adapt to the situation by hiring temporary employees until it is clear that expansion is permanent.” (de Gilder, 2003; p. 589). Conley (2002) also reported similar findings during a series of qualitative interviews with UK-based councillors. In the study, one councillor suggested that the increased use of temporary workers relieved pressure that resulted from a ‘no compulsory redundancy’ agreement with the unions, as he considered that

the shedding of temporary workers in times of budgetary difficulty did not constitute redundancy, allowing jobs to be lost without breaking the redundancy agreement (Conley, 2002).

Research by Felstead and Gallie (2004) argued that the continued growth of non-standard working arrangements throughout the developed world suggested that organisations may be segmenting their workforces along these lines in order to use non-standard workers as a buffer to protect the privileges enjoyed by those in the 'core' of the organisation. Such employment practices may well protect organisations in times of economic uncertainty, but this protection comes at the expense of the job security afforded to temporary staff, a situation that other research has also highlighted (e.g. de Gilder, 2003; Golden & Appelbaum, 1992). Chapter four will explore the organisational motive for increasing flexibility within the workforce, and the potentially negative impact that these employment practices have upon the individual will be considered in chapters five and six.

2.3.3. The Working Conditions Experienced by Agency Workers

When studying the use of agency workers in Europe, Nienhüser and Matiaske (2006) found a general discrimination in the form of less favourable working conditions and compensation in each of the 15 EU countries surveyed. Such results cannot be generalised, as the study only surveyed an average of sixteen full-time and seven part-time agency workers from each country, making it impossible to accurately contrast between these countries. Research in the UK by Storrie (2002) provided little indication that poorer working conditions exist for agency workers compared to their permanent counterparts, and labour force survey data shows only a slightly higher accident rate for agency workers compared to those on open-ended contracts. However, state inspections have found that third party employers and temporary employment agencies often provide inadequate health and safety training (Storrie, 2002). Similar findings are outlined in a study on Dutch metal workers in two companies. Agency workers were reported to possess poorer work clothes than company employees, as well as disposable earplugs instead of specially adapted ones. This was attributed to the fact that the agency workers had to pay for their own, although the duration of the working relationship seemed to be more important when explaining these differences, and similar difficulties were not reported in relation to co-worker treatment (Torka & Schyns, 2007).

In the UK, recent legislative changes have helped to clarify the responsibilities of agencies and firms with regard to health and safety issues and the provision of information, but the protection of agency workers is still patchy and the nature of agency work can prevent workers from fully experiencing the protection they should receive (Forde & Slater, 2006). The Recruitment and Employment Confederation (REC) can exert influence upon employment agencies; however, the REC is a voluntary body and there is no obligation on agencies to join or abide by the code. Even when members breach the code and are expelled, they can continue to operate as an agency in the UK (TUC, 2007b). Storrie (2002) also highlighted the lack of clear lines of responsibility as a result of the triangular contract that can make it difficult for temporary agency workers to achieve redress, since when an accident occurs, both the agency and the third party employer may refuse liability. Support does exist in the form of the Employment Agency Standards (EAS) Inspectorate, which is tasked with investigating complaints over the conduct of companies involved in the employment of agency workers (EAS, 2009).

So far the chapter has introduced the worker group known as agency workers, and discussed some of the concerns attributed to their employment. The chapter will continue by placing agency workers into a UK workforce context by analysing several national surveys, beginning with the labour force survey.

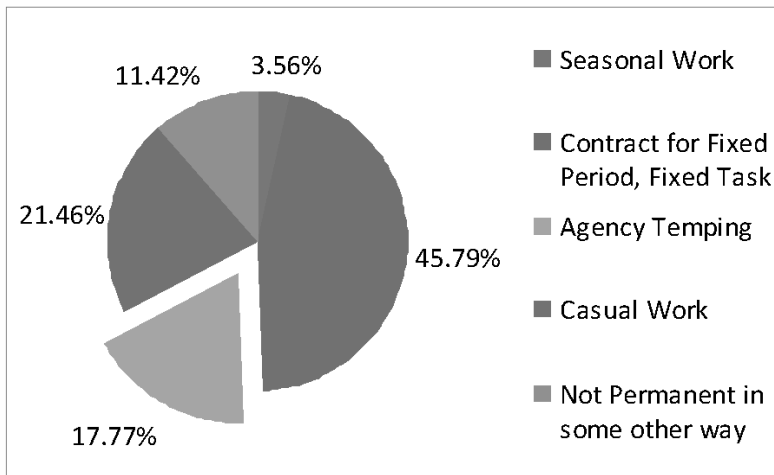
2.4. The Number of Agency Workers in the UK

On the 5th of December, 2008, the European Parliament agreed upon plans to adopt the Agency Workers Directive. EU countries were given a maximum of three years to implement the Directive, which will be explored in greater detail during chapter four. Ascertaining the number of workers the Directive will affect has become a key aim of the UK government, leading to the analysis of several set of data. One such dataset is called the labour force survey, which consists of information gathered from over 120,000 individuals representing approximately 55,000 households throughout Great Britain and Northern Ireland. The level of detail present within the survey makes it a useful tool in exploring the demographics of the temporary agency worker group, and data collected between January and March of 2009 (LFS, 2009) will now be considered further.

After analysing data gathered from the sample of over 45,000 individuals whom resided in some form of employment, the survey concluded that 5.31% of the UK workforce possessed a temporary form of

contract with their employer. The LFS further divided temporary workers into five categories: 'Seasonal work', 'Contract for fixed period, fixed task', 'Agency temping', 'Casual work', and 'Not permanent in some other way'. After drawing these distinctions, analysis indicated that the 'Agency temping' category made up 17.77% of temporary workers in the UK, and approximately 0.94% of the UK workforce in total. Figure 1 below illustrates the distribution of each temporary worker category. Fixed-term contractors are likely to have a contract of employment limited to a pre-determined period of time, casual workers are employed by an organisation for a short period of time, and seasonal workers are used to adhere to seasonal peaks in demand (Biggs, 2006).

Figure 2.2. The Distribution of Types of Temporary Worker in the UK (LFS, 2009)



As well as providing data that established the numbers and percentages of agency workers employed in the UK, the LFS incorporated over 600 variables for all workers that respond, allowing for a series of comparisons that can be drawn between different worker groups. The mean age of agency workers was reported at 36.64, compared to a mean age of 41.09 for permanent workers. A variable relating to the future intentions of the respondent was also included in the survey. Of the agency workers that took part in the survey, 25.93% stated that they were looking for a new job to replace their present job, compared to 4.45% of permanent workers and almost double the 12.79% of seasonal workers, who in this instance

represented the temporary category with the second highest percentage of workers who reported a desire for a new job.

In order to gain further clarification on the future intentions of survey respondents, the LFS specified nine potential reasons for looking for a new job, and whilst the respondents from the permanent category of workers recorded a fairly even distribution of motives, 44.14% of agency worker respondents to the question stated that the present job may come to an end, and 25.23% stated that the present job was undertaken to fill time before finding another job. Employees that took part in the LFS also recorded the amount of time that they had resided with their current employer. Of the agency workers that took part in the survey, 20.79% had been with their employers for less than 3 months, 21.03% reported between three and six months, and 20.79% between six and twelve months. In comparison, the reported numbers of permanent workers for these periods of time was 1.92%, 4.12%, and 7.13% respectively.

Despite providing extensive information on its respondents, cross-survey comparisons have led to claims that the figure of 200-250,000 agency workers indicated by the labour force survey represents a significant underestimation of the number of individuals employed in this temporary worker category (Biggs, 2006). One such claim was made in a memorandum by the department for Business, Innovation and Skills (BIS), which compared the LFS estimate with that of the REC census, which gave an estimate of 1.1 million agency workers in 2006, and a BIS Survey of Recruitment Agencies (SORA), which estimated approximately 1.5 million in 2007 (BIS, 2010). From the same sources, there were an estimated 16,000 recruitment sites (i.e. branches and offices), and whilst many of these included large and well known companies, just under 60% of this total consisted of small single site agency businesses with between one and five employees who matched agency workers with assignments (BERR, 2008a).

Several explanations could be put forward for these statistical discrepancies. Conflicting reports over the numbers of agency workers can often be attributed to fluctuations resulting from higher turnover rates compared with permanent workers and varying levels in demand for the work e.g. students seeking temporary employment during the summer months. The SORA reported similar difficulties stemming from high turnover and flexibility, stating that a significant number of cases cited in the survey lasted less than a week, and in some cases, just fifteen minutes (BERR, 2008a). Druker and Stanworth (2001) outlined another reason for statistical discrepancies in agency worker numbers, stating that in any one week, individual agency workers may reside on the books of multiple

agencies, and may even be placed into work by more than one agency. After drawing comparisons between the three main surveys of agency worker numbers, the BIS (2010) report attributed the contrasting conclusions to three main points. Firstly, the SORA and REC totals were based upon ‘snapshot’ surveys of recruitment businesses that were asked how many agency workers were on temporary assignment in a given time period. Secondly, agency workers represented a small proportion of workers, making it harder for a household survey like the LFS to find them. The self-reported format of the LFS was cited as the third potential cause of the inaccurate reports, as respondents may incorrectly class themselves as an alternative temporary worker category, or even permanent (BIS, 2010). Such difficulties suggest that accurately ascertaining agency worker numbers will always prove problematic (Biggs, 2006).

2.5. The International Differences of Agency Worker Employment

Other research has studied this form of employment in several other countries. Forde and Slater (2006) studied the patterns of agency working, and temporary working more generally, and found a considerable variation between countries. After completing their analysis, it was stated that: “The proportion of employees working on a temporary basis is low in the USA and the UK, especially in comparison with many European and other OECD [Organisation for Economic Co-operation and Development] countries.” (Forde & Slater, 2006; p. 143). Of these European countries, Spain undoubtedly stands out, as over one third of the Spanish workforce during the decade of the 1990s consisted of temporary workers (Amuedo-Dorantes & Serrano-Padial, 2002). Research into national variations typically points to the differing legal guidelines that temporary worker utilisation must adhere to in each respective country. Prior to the agreed adoption of the Agency Workers Directive (discussed in greater detail in chapter four), levels of agency worker protection varied significantly from country to country, and previous research has taken steps to draw out these comparisons.

In their symposium on temporary employment growth, Booth, Dolado, and Frank (2002a) reviewed evidence from four EU countries with varying patterns of temporary employment utilisation. By comparing research from Britain, France, Sweden, and Spain, Booth et al (2002a) argued that employment protection legislation significantly impacted upon the levels of temporary worker utilisation in the country’s workforce. Booth et al