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Agency workers in social care: Management,
experience and access to voice at work.

By

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A thesis submitted in partial fulfilment of the requirements for
the degree of Doctor of Philosophy

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Volume 1 of 2

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List of Acronyms

Transport and general workers union	TGWU
Trades Union Congress	TUC
Local Government Pay Commission	LGPC
Central Arbitration Committee	CAC
Master Vendor	MV
Neutral Vendor	NV
National and Local Government Officers Association	NALGO
National Union of Public Employees	NUPE
Confederation of Health Service Employees	COHSE
National Joint Council	NJC

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Declaration

This thesis is the result of my own investigations and has not been used in any published work.

This work has not been submitted for any other degree

Signed

Date

Summary

This thesis focuses on three key areas of research interest: the way in which agency workers are managed, the impact of heterogeneity in agency work (particularly in relation to job security and the opportunity to act in response to problems at work) and the opportunity for representative voice. It offers insight in these areas that have, to date, been under-explored.

The research examines two case studies, focusing on agency workers within the social care workforce. This primarily qualitative study has engaged with agency workers, managers and local and national union representatives using interviews as the main method of data collection.

This study concludes that the management of agency workers is fragmented and that control is divided between agencies and user organisations. It contributes to a growing literature around agency workers, advancing the view that agency workers are diverse and heterogeneous. Variations between agency workers affect their perceptions of different types of job security, and have a significant influence on their opportunity to act in response to problems at work. This thesis reviews the legal position of agency workers and concludes that equal treatment legislation is likely to increase the ability of some agency workers to mobilise, but that the absence of protection from arbitrary dismissal is likely to limit the ability of many agency workers to act in response to problems at work. It reviews the engagement between agency workers and trade unions, finding workplace indifference and rejection coupled with political lobbying for greater legal protection, and that should such protection be enacted it is likely to provide a stimulus for unionisation.

Chapter 1 - Introduction

This thesis investigates the nature of the triangular relationship between agency workers, temporary work agencies and user organisations and its impact on how these workers are managed, how they experience work and how it influences their ability to participate in decisions affecting their working lives whether through trade unions or otherwise. While the orientation of agency workers to work, and within this the reasons for taking agency work rather than a more traditional form of employment are important, so are the opportunities to participate offered by the state (enshrined in labour law), their dual employers and trade unions. The imprecise state of labour law in relation to agency workers offers these workers few concrete employment rights, essentially denying them a foundation of minimum entitlements and obscuring the 'opportunity to act' for some agency workers. For agency workers the risk of unemployment associated with exit are reduced by their relationship with the agency and its position as a labour market intermediary assisting them in obtaining new employment. This thesis will argue that the more ready availability of exit, coupled with the difficulty agency workers experience utilising voice at work means that many of these workers make use of exit strategies rather than voice at work. This presents a challenge to the foundation of worker representation and this thesis explores the impact of the triangular relationship on the exit-voice dynamic and on interest recognition and definition using mobilisation theory to identify the role for unions.

This thesis presents a study of agency workers in two local authority Social Care departments. Social care provides an ideal setting for such a study because of its diverse workforce, with a relatively high proportion of agency workers located in both

professional and non professional roles throughout, and because it is relatively highly unionised.

In the UK there has been a growth of managerial and professional workers entering part time and other atypical work. Far from conceptions of the atypical workforce as a marginalised and vulnerable group some authors have suggested that some such workers as 'free agents' can have greater control over their working lives than their traditional counterparts. Whilst the growth in managerial and professional workers amongst the atypical workforce has been a broadly acknowledged trend there is limited discussion of the implication of the broader range of workers engaged in atypical work. There is little consideration of the differences between atypical workers and the affect of those differences on the workers' experience of work. This research focuses on the experience of agency work and the many factors that may affect it, both personal and work related. By offering a categorisation of agency workers that moves beyond binary categories, I seek to explore the effect of their heterogeneity on their experience of work and access to voice. This study considers the impact of these differences on interest definition and the drive of different types of agency workers to make use of voice at work rather than exit from it. This leads into a discussion of the role for unions both in terms of their current interaction with agency workers, and also the potential for unionisation of different categories of agency workers.

The key themes of this thesis engage with a variety of industrial relations literature. It is framed within the growing body of work on atypical workers broadly, and particularly agency workers, on the nature and effects of agency work. The literature identifying the labour market position of agency workers and their characteristics informed the location

of the research and is used to position the workers in this study. The dichotomies presented in the literature of vulnerable vs. free agent agency workers, of agency worker as a bridge to permanent employment or a trap and of voluntary vs. involuntary agency work provide the basis of a discussion of heterogeneity of agency work. This thesis moves beyond the binary categories outlined in the literature to present a more nuanced categorisation that recognises differences in the orientation to work

In addressing the ability of agency workers to act on problems at work this thesis intersects with the debate about the legal status of agency workers. Agency workers are amongst the least protected workers in the UK labour market. The difficulties in establishing employee status will be outlined leading to a discussion of the implications of the lack of employment protection for the exercise of voice at work. The particularly problematic nature of a triangular employment relationship will be explored and links will be made with other, larger groups of workers (like contracted out workers) who experience similar employment relationships.

The exit/voice literature founded by Hirschman (1970) provides a foundation to investigate the effect of the triangular relationship that agency workers have with their dual employers on their propensity to use voice and exit. The extent to which different agency workers desire a voice in relation to the arrangements over their own working lives and the organisations that they work for will be discussed. Some authors have argued that the exit choice for agency workers may be illusory; this study in contrast argues that for some agency workers the costs associated with exit may be lower than for their permanent counterparts and that this may change their perceptions of the relative merit of voice vs. exit. If some categories of agency workers find exit a more

satisfactory means of dealing with problems at work this presents a challenge to the ability of trade unions to organise such workers. This thesis also presents the idea that agency workers do not have the same exit/voice choices as permanent staff. The triangular employment relationship offers agency workers the ability to exit one organisation while retaining ties with the other, or to access representative voice by engaging one organisation in representing them to the other about a problem at work.

The framework of union engagement with agency workers laid out by Heery (2004) is explored. This thesis concludes that accounting for both national policy and local practice within the typology presented is problematic. Where a policy of exclusion from membership is coupled with political level advocacy it is difficult to characterise the trade union response to agency workers within the framework.

Another area of industrial relations literature that is important to this research is around trade union decline and renewal. The significant trade union decline of the last three decades has provoked a variety of trade union strategies to address this. One renewal strategy has been to attempt to unionise groups of workers previously excluded. In some cases this has involved lobbying for legislative change and using legislation as a lever to organise workers and increase unionisation. In the context of union decline and changes in the composition of the workforce the response of trade unions to agency workers is of interest because it illustrates the willingness of trade unions to respond to a particularly challenging type of atypical type worker. Recruiting new types of workers has required unions to address new issues in order to effectively represent them. In the public sector, where union density is higher, agency workers make up a proportionally larger section of the workforce than in the private sector. This may

increase their attractiveness to trade unions, particularly as consolidated procurement of these workers means that fewer labour market intermediaries are involved in their supply to any one local authority.

Mobilisation theory informs my analytical framework linking the issues of heterogeneity, voice/exit and trade union renewal. Exploring the diversity in the management of agency workers and their experience of work provides the foundation for a discussion of how the triangular employment relationship affects the opportunity of workers to act in response to problems at work. How workers come to define their interests, and make the move from dissatisfaction to injustice is discussed, and the impediments to doing so. The triangular relationship also affects the attribution of issues to the employer because many areas of management are shared and it may be problematic to apportion blame, and agency workers may feel that it is their status as agency workers that is responsible rather than an employer. The opportunity to act in response to problems at work is reviewed. If some agency workers, because of their labour market position or relationship with their agency, are able to use exit to resolve perceived problems at work what of those workers for whom exit is not an option? Some workers are not in a privileged labour market position. For these workers the insecurity associated with their agency status and their labour market position may make it impossible for them to act. So, it may be the case that agency workers fall into three groups; one with the ready availability of exit for whom resolving problems at work (individually or collectively) is not seen as necessary, one with a weak position in the labour market where voice may jeopardise employment and exit is not an option, and one where the relationship with either the user organisation or the agency offers a means of resolving issues with the other, or failing that the opportunity to exit only the

other.

Research themes

This thesis is concerned with three main themes: inside the triangular relationship; understanding heterogeneity in agency work; and opportunity for voice in agency work. These themes are themselves linked by the underpinning theoretical framework of mobilisation theory.

The first research theme looks inside the triangular relationship to see how the two 'employing' organisations manage agency workers. The literature talks about division of employer function between the agency and the user organisation. Where workers have two employing organisations, who takes responsibility for which elements of the employment relationship must affect the experience of organisational life. Beyond the question of who manages these workers is the question of how they are managed. I explore how the unusual triangular employment relationship affects how these workers are managed day to day, which policies are used and how they are treated at work.

Research questions:

1. Who manages agency workers and how are they managed?
2. How do agency workers experience agency work?

The second theme – heterogeneity - looks in more detail at the varied experience of

different agency workers and the reasons for this. The literature outlines two contrasting types of agency workers, vulnerable workers and 'free agents', with many authors arguing that neither characterisation is entirely accurate. This theme develops this point, investigating how agency workers' experience is affected by different situations and different reasons for accepting agency work. It goes on to consider whether those differences affect the need and desire for protection and voice in agency work. It looks at how difference in agency workers with respect to their orientation to work, their characteristics, their labour market position and their relationship with both the agency and user contribute to different outcomes in terms of how they come to define, articulate and act upon their interests.

Research questions:

3. What is the impact of heterogeneity on the experience of agency work?
4. Are agency workers able to act in response to problems at work?

The final theme – opportunity for representative voice - looks at how agency workers in the study have engaged with trade unions and professional associations. It looks at the space for unions in the triangular relationship. It considers the role of the union as laid out in mobilisation theory as leaders, framing issues in a collective way and encouraging workers to see that collective resolutions can be effective in remedying perceived injustice. It explores the implication of the conviction of many agency workers in this study that exit would be a primary way of resolving problems at work on their perception of the utility of unions. It also investigates the workplace and political engagement with agency workers and the implications of union decisions on the access that agency workers have to representative voice.

Research Questions

5. Is there a need and desire for representative voice?
6. How are trade unions engaging with agency workers in this setting?

Structure of the thesis

The next chapter presents an overview of key debates covering the literatures indicated above. It provides a brief survey of the field and describes the theoretical frameworks of mobilisation and voice/exit that underpin this thesis. Chapter 3 outlines and justifies the methods used in this study and provides a rationale for the selection of research sites. Chapter 4 outlines the local government sector and the use of agency workers in local government. It places the primary research into context by offering a brief history of the sector and detailing the position of agency workers within the social care workforce.

Chapter 5 introduces the research sites, giving a broad background to both local authorities, identified as 'City' and 'Met'. It begins the presentation of the substantive findings of the research by investigating the drivers that have led to the use of agency workers within City and Met. The different approaches to procurement of agency workers at each authority are described and the implications of the choices that they have made for managers within the local authorities are considered. This provides the background to the setting within which agency workers, agencies and managers within the user organisation act.

Chapter 6 explores the management of agency workers at the two local authorities. It

highlights the importance of the workplace line manager in determining the treatment of agency workers by looking at the impact of the manager on agency worker training, recruitment and how problems at work are dealt with. It demonstrates the lack of formal arrangements for dealing with disciplinary or capability problems, and the varied approaches to the management of these workers. The involvement of both the user organisation and the agency in the management of these workers is discussed and the difficulty in identifying which is responsible for which aspects of management is highlighted. The research offers insight into the areas in which agency workers are able to have influence on the organisation of their working lives, such as negotiating pay, flexible working and taking leave at short notice. It also reveals those areas where they have little access to voice such as where disciplinary or competency problems arise, in accessing the grievance policy, the lack of appraisals, being excluded from team meetings and briefings and staff surveys. This discussion provides the background to understanding how agency workers come to view issues at work and their ability to participate in organisational decision making. This chapter argues that managers foster divisions between workers by underscoring differences in status with differences in treatment. This has a counter mobilising effect challenging the ability of agency workers to socially identify with their colleagues.

Chapter 7 looks at agency workers' experience of agency work. It explores the reasons why workers in the research have decided to undertake agency work and how their decision impacts on their experience. It reports how workers themselves view agency work, its advantages and disadvantages, the implications for training and their ability to raise workplace issues. It reviews the traditional construct of job security and concludes that it is not sufficiently nuanced to adequately describe the varied experiences of

different types of agency workers. It presents a more detailed discussion of different types of job security that agency workers experience. A typology of agency workers is developed in this chapter to explain how different workers experience agency work in diverse ways, and to explore the implications for voice and exit. This feeds into a discussion of the ways in which agency workers identify their interests, and whether they do so in a collective or individual way. The way in which the triangular relationship and other factors affect the ability of workers to act upon their interests is considered, together with the relative utility and viability of 'exit' and 'voice'.

Chapter 8 focuses on the interaction between trade unions and agency workers. It reviews the desire of different types of agency workers to unionise and how the trade unions in the sector interact with workers at workplace level. It goes on to discuss the political level lobbying that has been undertaken by Unison, GMB and Unite to enhance legal protection for agency workers. It engages with Heery's (2004) matrix of union engagement with agency workers and argues that categorisation of union policy nationally as well as local practice is difficult. It moves on to look at the engagement of the British Association of Social Workers (BASW) with agency workers and concludes that its structure outside the workplace, coupled with the services that it offers that are particularly attractive to agency workers mean that agency workers are less resistant to joining.

Finally, Chapter 9 looks at the bigger picture around the potential for agency workers to act in response to problems at work. It expands on the heterogeneity theme intersecting with the literature on agency work to discuss the binary categories and demonstrate how the typology of different agency workers apply to workers studies in other contexts. It

moves on to discuss the capacity of agency workers to act in response to problems at work using mobilisation theory to demonstrate the difficulties and opportunities that the triangular employment relationship offers. It then reflects on the changing legal status of agency workers and the likely implications of the introduction of equal treatment legislation. It concludes that in the absence of protection from arbitrary dismissal in the event of raising problems at work, the prospects for offering workplace voice to more agency workers is limited. The prospects for engaging with these workers as part of union renewal is discussed and it is argued that legislative change is likely to provide stimulus for workplace level engagement with these workers.

Chapter 2 – Locating the research

Change within the labour market has been well documented over recent years. The move from standard full time permanent employment for a single employment to a plethora of subcontracted and atypical working arrangements has been the subject of much academic interest (On subcontracting see amongst others Supiot 2001, Rubery et al 2005, Grimshaw and Hebson 2005, on atypical work see below). A variety of authors have pointed to the less favourable treatment and conditions experienced by atypical workers generally (McGovern et al 2004, Nienhüser and Matiaske 2006, amongst many others) and temporary workers more specifically (Stanworth and Druker 2004, Burgess and Connell 2004, Casey 2004, Forde 2001 2005 2006, Kirkpatrick and Hoque 2006, amongst many others).

Temporary agency workers can be defined as:

“Workers with a contract of employment or employment relationship with a temporary agency with a view to being posted to a user undertaking to work under its supervision” (DTI 2003: 3)

They are atypical in that the duration of their placement is generally short and they have a complex triangular relationship with two employers. Temporary agency workers make up a distinctive part of the atypical worker group because their arrangements are not only contractually different, they also lack the single direct relationship with one employer that most employees and workers experience.

Agency work is one example of atypical work but the boundaries between agency work, self employment, contracting, and even casual and outsourced work are blurred. There are distinctions to be drawn between these arrangements; however even the workers themselves are often unclear as to their relationship. Some workers set up their own limited companies through which to offer their services, often to gain tax advantages or at the behest of agencies; some such workers consider themselves to be contractors while others view themselves as agency workers. The triangular relationship that agency workers have with their two employers is not the only example of triangular employment relationships. Edwards (2006) points to outsourced workers who have similar work experience of tripartite employment relationships as they are employed by one organisation to carry out functions on behalf of another.

Within the local authorities there are many examples of this, including the outsourcing of domiciliary care where many workers that were previously employed directly by the local authority are outsourced to private companies to carry out the same duties. These workers will be working for a service user on behalf of a local authority, to standards set by the local authority but for a third party company. Such arrangements are increasingly common with over half of all workplaces outsourcing four or more services (Edwards 2006). The Supiot report (1998) notes the difficulty for subcontracted workers as no legal arrangement exists between them and the user organisation but decisions made by the user organisation are likely to determine how many jobs exist and many of the conditions of employment. As with agency workers, the triangular relationship for outsourced workers presents problems in accessing most labour law provisions particularly in terms of representation and bargaining with the user

organisation (Supiot 1998).

This thesis focuses specifically on agency work, however the issues affecting agency workers are relevant to atypical workers more broadly, and other workers with triangular employment relationships even where they are employed in open ended permanent employment. Agency work is emblematic of new forms of work involving triangular relationships between the parties involved. It involves the transfer of risk from the enterprise to the individual worker and leaves the worker on the outskirts of employment protection.

What follows is a description of agency work in the UK and EU labour markets. It places the research into context. It establishes the diverse nature of agency work which is carried through the thesis, but particularly considered within the second research theme looking at heterogeneity amongst agency workers.

The number of agency workers in the UK labour market is difficult to quantify as estimates vary greatly. BERR (2008) argue that the most accurate measure of the number of agency workers in the UK labour market come from the Recruitment Industry Confederation (REC) and the Survey of Recruitment Agencies (SORA). This places the number of agency workers at between 1.1 and 1.5 million workers. The Labour Force Survey (2007, see Fig 2.1 and 2.2) indicates a total of almost 1.5 million atypical workers, around 20% (300,000) of these workers are temporary agency workers. The main source of information on patterns of atypical employment is the Labour Force Survey; it provides quarterly information on the level of atypical work in the labour market divided into fixed period contracting, part time, seasonal, casual and

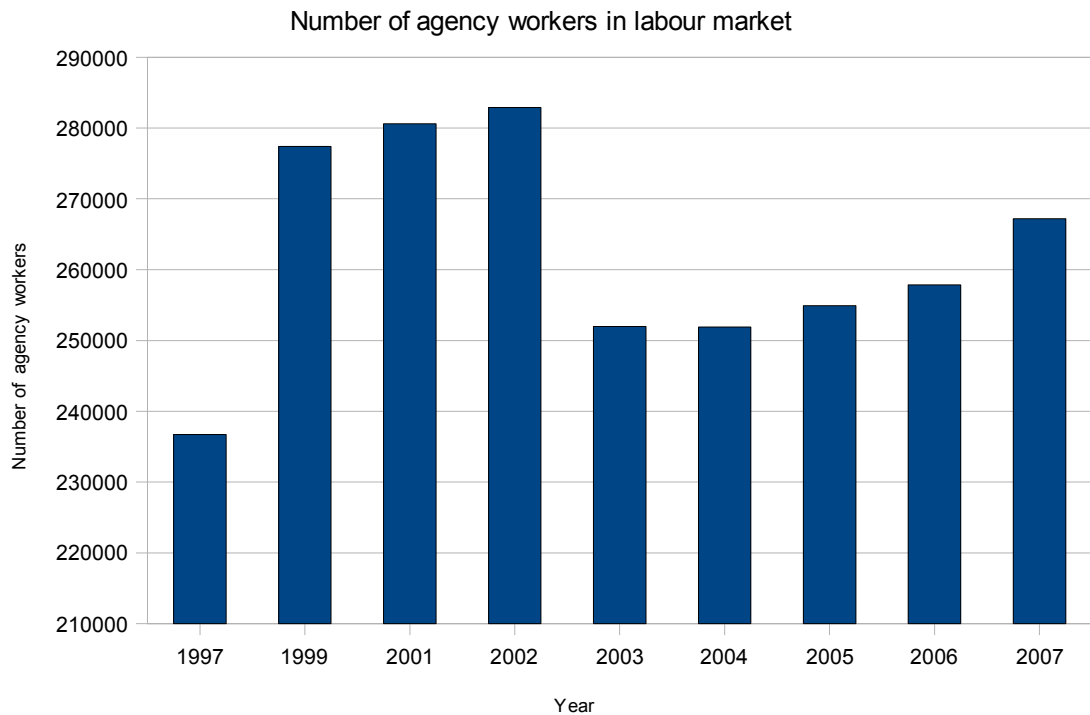
agency work. Some authors (Arrowsmith 2006, Edwards 2006, BERR 2008) argue that it underestimates the level of atypical work in the UK because respondents define their jobs as permanent even when they work in some non-standard arrangement. Edwards (2006) notes that 12% of the Labour Force Survey sample were unclear about employment status even after detailed questioning, and his suggestion is that this means that the boundaries between standard and non-standard work are blurred and some forms of non-standard working may not be captured in the Labour Force Survey. Nonetheless the time series data are helpful because they offer some indication of changes in the number and proportion of agency workers within the workforce.

Fig 2.1 Atypical workers in the UK by quarter

Labour Force Survey 2007

Year	Quarter	All ²³	Fixed	Agency	Casual	Seasonal	Other
		(000s)	period contract (%)	temping (%)	work (%)	work (%)	(%)
1997	Q2	1,740	50.1	13.5	20.3	6.2	9.9
	Q4	1,807	50.0	13.2	18.5	7.5	10.8
1999	Q2	1,623	49.0	15.9	21.1	5.5	8.5
	Q4	1,715	46.6	17.3	19.0	6.6	10.5
2001	Q2	1,663	48.0	16.2	19.2	4.6	12.1
	Q4	1,630	46.6	17.9	18.0	6.1	11.4
2002	Q2	1,533	46.8	18.3	20.1	4.9	10.0
	Q4	1,621	46.5	17.6	19.4	6.2	10.2
2003	Q2	1,436	48.2	17.3	19.0	5.0	10.6
	Q4	1,558	45.9	16.4	20.5	6.4	10.8
2004	Q2	1,452	46.7	16.2	20.5	4.9	11.7
	Q4	1,526	44.4	17.6	19.5	7.2	11.3
2005	Q1	1,382	47.2	18.1	18.8	4.2	11.7
	Q2	1,393	45.8	18.5	19.0	5.2	11.5
	Q3	1,543	43.0	17.2	20.1	9.2	10.6
	Q4	1,408	45.5	17.5	19.7	6.4	10.8
2006	Q1	1,404	46.8	17.8	19.5	4.2	11.7
	Q2	1,408	45.1	17.7	21.3	4.8	11.2
	Q3	1,513	40.9	17.7	21.8	8.5	11.1

Fig 2.2 Agency workers in UK labour market



Labour force survey 2007

Labour force survey data (see fig 2.1) suggests that the level of agency working in the UK grew in the period between 1997 and 2002 before a steep fall in 2002-2003. Since 2003 there has been steady growth in the number of agency workers.

Unison (2007) suggests that the difference between the official Labour Force Survey statistics and the recruitment industry's own figures suggests that there are a large number of agency workers that do not show up in official surveys and that these workers are likely to be vulnerable workers such as migrant agency workers.

Within the UK, most agency workers work in settings where the majority of their colleagues are directly employed on open ended contracts (Stanworth and Druker 2005, Olsen 2006). BERR (2008) reports that agency workers are most likely to work in

transport, financial services and manufacturing, though the ETUC found that 80% of these agency workers are employed within the public and service sectors (ETUC 2005). WERS (2004) found that most agency workers worked in the public sector, however BERR (2008) found that proportionally less agency workers worked in the public sector than the labour market. Like most EU countries the gender of agency workers is fairly balanced in the UK with men accounting for just over half of agency workers (Arrowsmith 2006, BERR 2008). Assignment length varies a great deal, BERR (2008) reports that 18% of assignments last under 1 week, with 55% lasting under 3 months and 11% lasting over a year.

The number of agency workers has grown in almost every EU15 (and Norway) country in the last two decades. Although they make up only 1-2% of employment in most countries, this is the equivalent of 2.5-3 (Arrowsmith 2006, see Fig 2.3). The UK has the highest level of agency work in the EU with agency workers making up around 5% of the working population (BERR, 2008; Arrowsmith, 2006). Most of the growth in the number of agency workers was concentrated in the 1990s and slowed in the 2000s.

Fig 2.3 Agency workers in the EU15 & Norway

Country	Number of employees	Proportion of total workforce (%)
Austria	44,125	1.4
Belgium	75,131	2.2
Germany	399,789	1.2
Denmark	6,341	0.3
Greece	3,503	Not reported
Spain	150,000	0.8
Finland	14,000	0.6
France	569,314	2.1
Ireland	25,000	Not reported
Italy	153,000	0.6
Luxembourg	7,135	1.6
Netherlands	157,000	2.5
Norway	22,784	1
Portugal	45,000	0.9
Sweden	35,000	1
UK	(a) 600,000 (b) 1,434,098	(a) 2.6 (b) 5.1

Arrowsmith (2006)

The sectoral distribution of agency workers varies over the EU15, Arrowsmith (2006) reports on data from twelve countries and identifies three groups; the first where agency work is predominantly located within the manufacturing sector (Austria, France, the Netherlands and Portugal); the second where higher levels exist in the service sectors (Spain, Sweden and the UK); and a final group where the sectoral profile is mixed (Belgium, Denmark, Finland, Italy and the Netherlands). The public sector is a significant user of agency workers in Denmark, the Netherlands, Norway and the UK. The UK reports the highest level of agency worker use in the public sector (Arrowsmith 2006: 7).

The typical duration of agency worker placements varies across the EU. Arrowsmith (2006) reports that the differences in available data across the countries reporting on duration of placements make it difficult to draw meaningful comparisons. In some countries, like France and Spain, the vast majority of agency workers work in very short assignments. In other countries, like Ireland and the UK, assignment duration varies more widely from very short assignments of a few days up to those lasting over a year.

BERR (2008) reports that agency workers are more likely to be younger workers, and almost twice as likely as the labour force in general to be from black and minority ethnic groups. Fewer people with disabilities are agency workers. The level of work ranges from clerical, care and manual jobs paid at the level of the minimum wage to professional roles in teaching, social work and senior management appointments.

Recruitment agency sector

The nature of the recruitment agency sector is important to the research contained within this thesis. The temporary agency industry is characterised by heterogeneity. This heterogeneity is likely to impact on the management of agency workers and their experiences of agency work. The following section offers a discussion of the sector in general which provides the background to the detail of the agencies used in the case study authorities provided in Chapter 5.

As Burgess and Connell (2004: 1) note, diversity in the industry applies to the size and scale of operations, ownership, motivation, the size and range of services provided, the industries and occupations serviced, and the locality of operations. BERR (2008)

reports that 54% of agencies are single site agencies with 57% of all agencies employing between 1 and 5 branch staff. only 1% of agencies employ over 200 staff.

In most other European countries the employment agency sector is dominated by a few large players; in the UK this is not the case. Rather the sector is diverse, encompassing a large number of small firms, a few major players and a small number of well-known medium-sized agencies.

The two largest temporary work agencies are Adecco and Manpower. Adecco operates 7000 offices in sixty countries and has a worldwide branch workforce of 37,000 servicing up to 150,000 clients with 700,000 staff on assignment each day (Adecco Website, 18.2.08). Manpower operates 4,400 branches in seventy three countries with a worldwide branch staff of 30,000 that placed 4.4 million people in temporary, permanent or contract positions in 2006 (Manpower website, 18.2.08). These two companies dominate the worldwide temporary agency work market. Both market themselves as ethical employers with detailed corporate social responsibility policies (Adecco website, 18.2.08, Manpower website, 18.2.08). They dominate the global temporary agency work market and Manpower's 4.4 million placements eclipses the 1.9 million worldwide employees of the world's largest company, Walmart.

The larger companies in the UK, including Manpower and Adecco, have sought to distance themselves from less reputable agencies where there have been significant reports of abuses. They have undertaken a range of measures including signing recognition agreements with various trade unions, sponsoring the Trades Union Congress (TUC) campaign to improve information about employment protection for

agency workers and directly employing agency workers to promote a respectable soft Human Resources (HR) image (Stanworth and Druker 2004, Heery et al 2005). Nonetheless, the agency sector as a whole is vocally opposed to 'regulation set' minimum employment standards and the UK is marked out from its European neighbours by its relative lack of regulation governing temporary work agencies and temporary agency work (Arrowsmith 2006).

Current UK regulation of 'employment businesses' covers firms supplying temporary agency workers. Legislation regulating the sector is the Employment Agencies Act 1973, and the Conduct of Employment Agencies and Employment Businesses Regulations 1976 & 2003 (amended). Regulations are enforced by the Employment Agency Standards Inspectorate, which is part of the Department for Business, Enterprise and Regulatory Reform. While these regulations offer neither definition of agency workers, nor suggestion of employment status they provide some basic standards with which agencies must comply. These include responsibility for health and safety, restrictions on fees, guarantees of payment of wages irrespective of payment from user organisation, requirement to provide written details of placements amongst others. Specific provisions have been enacted to cover some sectors of the agency workforce, such as modelling, HGV driving and agriculture.

Adecco and Manpower give their agency workers employee status, albeit on 'zero hours' contracts. This differentiates them from other agencies as it protects the user organisation from becoming the legal employer and gives agency workers additional employment rights with the agency.

Compared with our European neighbours the agency sector in the UK is large, supplying 5% of the workforce. It encompasses a large number of small agencies, but is dominated by a small number of very large companies such as Adecco and Manpower.

Legal protection for agency workers

The regulation of agency work is problematic within the UK. This section lays out the legal context in which agency workers and employers come to understand their rights and obligations. It reviews the statute law and recent case law in the area of employee status. It concludes that in practice it is very challenging to determine whether a long-term agency worker is likely to be considered an employee of the user organisation. If employment tribunals struggle to determine with 'perfect predictability' the employment status of an agency worker what hope is there for workers and employers?

Rubery et al (2005) argue that employment and organisational relationships are shaped by the legal context and that the legal context is in turn shaped by organisational developments. Despite the fact that a number of triangular employment relationships exist in contemporary workplaces the legal context continues to see long-term employment between a single employer and employee as the focus of regulation. With few exceptions (such as TUPE and Health and Safety) there is little recognition of the changing forms of employment relationship. The growth of outsourcing and continued presence of agency work means that there are areas in which large numbers of workers are subject to control of non-employers, yet such workers rarely have the legal capacity to challenge decisions in these contexts. The law has as yet to recognise employment relationships that span organisational boundaries.

The following section will first provide a brief outline of the regulation of agency work across the European Union. This is followed by a discussion of the legislative protection of agency workers within the UK including a discussion of case law. It is concluded by a discussion of the alternatives available for regulating agency work.

EU legal context

The regulation of temporary agency work across the European Union is far from uniform. Agency workers are legally considered to be the employees of the agency in all European countries other than the UK and Ireland (Storrie 2002). In Ireland the agency worker is considered an employee of the user organisation. The UK is the only EU country in which an agency worker is considered neither the employee of the agency nor the user organisation. Arrowsmith (2006) notes that the regulation of temporary work generally has been a contentious issue at European level since the first directive was proposed in the area in 1982, and that the debates have intensified with the growth in temporary work. Whilst agreement was reached in the area of fixed term contractors in 1999 leading to the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 it was not until October 2008 that agreement was finally reached for a Directive on Temporary Agency Work (2008/104/EC). The concept of equal treatment for agency workers is more complex and difficult to regulate than for other workers because of their triangular employment relationship.

Arrowsmith (2006) provides an overview of the regulation of temporary agency work in the European Union. He offers a description of the positions of member states and then outlines the primary areas of statutory regulation as equal treatment, reasons for use,

limits on duration and sector/occupation restriction. The UK is one of only four EU countries that regulate none of these areas. Eleven of the EU15 have legislation in place to ensure some kind of equal treatment between agency workers and permanent counterparts at the user organisation. Equal treatment measures in these countries tend to revolve around either the requirement for them to be paid and/or treated equally with employees of the user organisation or with reference to having the terms of collective agreements applied equally to them. The exception is Germany where agency workers are treated equally with permanent employees unless there is a collective agreement to the contrary.

Legislative protection of agency workers in the UK

Davies and Freedland (2007) note that the intention of the successive Labour governments between 1997 and 2007 was to pursue an agenda of managerial flexibility in their approach to labour law, in order to promote a policy of full employment and increased participation in the labour market. With this policy objective in mind, the regulation of non-standard work presents particular difficulties. The growth in new forms of employment outlined previously that may enhance business flexibility must be coupled with the government's interests in widening participation in the labour market and protecting vulnerable workers. The balance must be struck between protecting workers rights in the workplace set against minimising the regulatory burden on employers. Dickens and Hall (2006) suggest that fairness and security do not have to be in opposition to economic efficiency and competitiveness, and that the Labour government has increasingly sought to present its legislative changes in the area of employment law as pursuing complementary objectives of social justice and economic

efficiency. This is exemplified by the announcement of additional rights for agency workers by John Hutton, Secretary of State for Business, Enterprise and Regulatory Reform, when he said:

“Today's agreement [on regulating agency work] achieves our twin objectives of flexibility for British employers and fairness for workers. It will give people a fair deal at work without putting their jobs at risk or cutting off a valuable route into employment” (Hall 2008)

Basic details of the deal were announced in a jointly agreed statement. The statement was careful in its use of terms and referred to workers rather than employees suggesting that agency workers are not to be considered 'employees' under the law after twelve weeks of a placement. While they may be entitled to equal treatment in many respects it appears unlikely that their employment status will be clarified by this legislation. The Government has announced that it will seek to persuade the EU that the proposals are compatible with the proposed EU directive and if successful will attempt to introduce primary legislation in the autumn. The transposition of the agreement into law is crucial to the employment position of agency workers. It will determine whether agency workers will be defined in law as employees or workers and in which areas they are entitled to equal treatment, for example whether it is limited to pay and basic conditions or will include training and promotion opportunities.

Rights at work for non-standard workers have been conferred in two main ways over the last decade. Firstly non-standard workers have been included in 'mainstream' employment legislation where it has been enacted to cover 'workers' rather than

'employees'. The National Minimum Wage Act and Working Time Regulations 1998 introduced the new category of 'worker'. Davies and Freedland (2007) argue that 'worker' is an intermediary category, recognising that some working people were economically semi-dependant and that its application extends some limited protection to these working people that would otherwise fall outside the scope of protective employment legislation. The Employment Relations Act 1999 gave the government the power to vary the scope of other employment legislation i.e. to confer rights on workers rather than employees, however this power has not been exercised. Secondly, specific legislation originating in European Community directives has been introduced to achieve parity for certain types of non-standard workers. Both part time workers (The Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000) and Fixed Term Workers (The Fixed Term Employees (Prevention of Less Favourable Treatment) regulations 2002) have been offered such protection. These regulations have not been without criticism (see McColgan 2003 amongst others) particularly in relation to the restrictions to the parity principle and in the case of the fixed term regulations their restriction to the category of 'employees'. However they have increased protection for some part time workers and fixed term employees. The Directive on Temporary Agency Work was finally agreed by the European Parliament in October 2008 after many years of opposition of member states including vocal opposition from the UK (Davies and Freedland 2007).

Within the current UK legislative framework some employment protection is offered to 'workers', however "most key employment rights [are] conditioned upon the continual contractual employment relationship" (Davies and Freedland 2007: 89). If agency workers are able to establish that they are indeed employees of either the agency or the

user organisation they gain access to additional employment rights including protection from unfair dismissal, the right to redundancy payment, the right to maternity, paternity leave and parental leave and emergency leave to deal with family crises, and the right to a statement of terms and conditions, amongst others. However agency workers face a challenge in establishing their employment status. Whilst it is clear that they legally fit within the categories of 'worker' (in relation to Working Time Regulations 1998 and the National Minimum Wage Act 1998 amongst others) and 'employed person' (in relation to discrimination legislation), whether they can be considered 'employees' is a matter of contention. Legislation does not specify what the status of temporary agency workers should be; rather it is left to employment tribunals to determine employment status using common law tests. UK courts have been reluctant to accept the existence of such employment relationships within the triangular relationship that agency workers have with their agencies and user organisations. Case law in this area is complex and there appear to be conflicting authorities. However there is agreement about the tests used to establish whether agency workers are the employees of the agency or the user organisation or not employees at all.

The legal tests were intended to distinguish between economically dependent employees and the genuinely self employed. They are premised on the assumption of a single employer and its relationship with individual employees. Put simply to establish employee status an agency worker must prove that mutual obligations exist between themselves and their employer, that their employer has the power to direct them and control the work that they do, and that where a contract does not exist or does and states in writing that it is not a contract of employment that it is necessary to imply a contract to reflect the reality of the situation. So, the three key tests currently in use to test

agency status are mutuality of obligation, control and the contractual test of necessity.

Mutuality of obligation

Whilst the authorities are not entirely clear about the precise nature of the mutual obligations that should be shown between an employee and their employer, they offer some guidance as laid out in *Cotswold Developments Construction Ltd v Williams (2006)*. Mutuality of obligation has two levels; the first is that the worker has to work and the employer has the obligation to pay them for doing so. The second is that this arrangement must be an ongoing one with the employer offering promises to employ and the employee to be employed over time. The mutuality of obligation test is most difficult for agency workers in successive short-term placements because they will struggle to establish mutuality of obligation between placements where their contract with the agency is likely to explicitly state it has no obligation to provide work. Such workers may attempt to suggest that there is an over-arching, umbrella or global contract that governs periods when they are not at work as well as those where they are, though this has not been successfully argued at employment tribunal. For agency workers who are engaged on a single ongoing placement the problems associated with gaps in employment and the level of mutuality of obligation in such periods do not arise. In most cases, agency workers have explicit contracts with their agency and generally no written contractual arrangement with the user organisation.

Control

The control test rests on whether the organisation has the power to determine what work

should be done as well as how, when and where it should be done (*Ready Mixed Concrete (South East) Limited v Minister of Pensions and National Insurance, 1968*). This test has been much criticised because it does not easily apply to workers that have a high degree of professional or occupational training or substantial discretion over the mode and location of work (Deakin and Morris 2006). Nonetheless it has been invoked to argue that agency workers are employees of the user organisation. This test presents agency workers with particular difficulty because the functions of the employer may be split between two employing organisations (the agency and the user organisation). It can therefore be challenging to establish which organisation, if any, has control.

Dacas v Brook Street Bureau (UK) Ltd (2004) is emphatic about the fact that the agency is unlikely to exhibit sufficient day to day control to establish such a contract. In general, agency workers have tried to establish that it is the user organisation that has sufficient control to be the legal employer.

The contractual test of necessity

Dacas (2004), confirmed by *Cable & Wireless Plc v Muscat (2006)*, made it clear that it was necessary to look at the entire arrangements in determining whether there was a contract of employment rather than simply relying on the contractual documentation. Using this approach, employment tribunals are required to look beyond the written contract to see whether they contain the whole bargain between workers and user organisations or whether it is necessary to imply a contract between agency workers and the user organisation because of their conduct. *Muscat (2006)* identified that the agency worker was an employee because the express contractual arrangements did not reflect

the reality of the relationship between the worker and organisation and that therefore it was necessary to imply a contract of employment to reflect the reality of the situation. In *Muscat (2006)* the court found that the contractual position was a sham and was never truly born out by the actions of the parties. However, contracts may be implied where the parties intend the arrangements to reflect the express contract but their behaviour over time is inconsistent with the express contract. [*James v. Greenwich Council* \(2006\)](#) sets out the proper way tribunals should deal with the question of implied contracts focusing on limiting the circumstances where it may be necessary to imply a contract between the agency worker and the user.

"If there were no agency relationship regulating the position of these parties then the implication of a contract between the worker and the end user would be inevitable. Work is being carried out for payment received but the agency relationship alters matters in a fundamental way. There is no longer a simple wage-work bargain between worker and end user." (James 2006)

The ruling in *James (2006)* suggests that the triangular relationship that agency workers have with their dual employers is likely to have the effect in most circumstances of denying them employee status. The reason for this is twofold; firstly, the separation of employer function between two organisations changes the employment relationship and makes it difficult to identify an employer. Secondly, the contract between the agency worker and the agency, as well as the contract between the agency and user organisation, is likely to make it difficult for agency workers to establish that there is an implied contract between the worker and the user organisation, particularly in light of the guidance in *James (2006)*:

"Provided the arrangements are genuine and the actual relationship is consistent with them, it is not then necessary to explain the provision of the worker's services or the fact of payment to the worker by some contract between the end user and the worker, even if such a contract would also not be inconsistent with the relationship." (James 2006)

This ruling means that agency workers acting in accordance with the express contract between themselves and their agency have little prospect of establishing employee status with the user organisation even if it would be consistent with the relationship that agency workers had with the user organisation to imply a contract of employment. It is not sufficient for an employment relationship to be consistent with the relationship between the user organisation and agency worker, it must be necessary to imply a contract because of the behaviour of the parties. This ruling relies on *Mitsui and Co Ltd v Novorossiysk Shipping Co. (The Gudermes) (1993)* by Staughton LJ when he said:

"It is not enough to show that the parties have done something more than, or different from, what they were already bound to do under obligations owed to others. What they do must be consistent only with there being a new contract implied, and inconsistent with there being no such contract."

The principle of necessity reduces the number of agency workers who will be able to claim employee status because if the contractual agreements between workers and agencies; and agencies and user organisation, reflect the nature of the relationship between workers and user organisations then it will be difficult for employment

tribunals to justify implying a contract of employment.

The Employment Appeal Tribunal ruling in *James (2006)* has been confirmed by the Court of Appeal which has ruled that it is not inconsistent with *Dacas (2004)* and *Muscat (2006)*. All three cases identify that for an agency worker to claim employee status with a user organisation in circumstance where there is an express contract denying employee status they must show that the real relationship is inconsistent with the express contract and that it is necessary to imply a contract of employment to properly reflect the reality of the situation.

Case law

Some courts have implied contracts of employment between agency workers and user organisations as a mechanism for granting further rights. In doing so, they pinpoint the user organisation as the bearer of employment obligations to workers who may otherwise find themselves without employment protection. That said, in the most recent case, *James (2006)*, the Employment Appeals Tribunal decided that there were few circumstances where agency workers could be said to be the employees of the user organisation and that the case before it was not one of these. They went on to say that:

“Many agency workers are highly vulnerable and need to be protected from the abuse of economic power by the end users. The common law can only tinker with the problem on the margins. That is not to say that all agency relationships simply have as their objective to defeat the rights of the workers... A careful analysis of both the problems and the solutions, with legislative protection where

necessary, is urgently required.”

In *James v London Borough of Greenwich* (2008) the Court of Appeal upheld the decision that James was not an employee of the user organisation. The Court of Appeal commented that it is not always possible to predict with certainty whether an employment tribunal will find a contract of employment between an agency worker and a user organisation, and that the nature of the judgement that the tribunal has to make “allows for a degree of latitude without falling into legal error”. The question of employment status of agency workers is a mixed question of fact and law. The Court of Appeal reminds us that appeals on this point must be confined to questions of law, and that “appellate bodies must not interfere with a decision of an ET that a worker is or is not an employee simply on the ground that it would not have decided the point that way.”

James (2008) appears to have far-reaching implications for agency workers in two areas. Firstly, it appears to reduce the number of agency workers that may be considered employees of the user organisation. Secondly, the guidance to appellate courts appears to suggest that two tribunals sitting with identical facts on a case may reach opposite conclusions as to the employee status of an agency worker and it would be difficult to overturn either judgement on appeal as both would potentially be legally sound. This means that the employment status of agency workers remains unclear in light of the judgement in *James* (2008).

The rulings in relation to *Dacas* (2004) and *James* (2008) are both of interest in relation to this thesis for two reasons. The first is that both relate to agency workers engaged by

Local authority Social Care Departments and as such the workers worked in a similar setting to those interviewed for this research. Secondly, the judgements cast very different lights on the employment status of the agency workers interviewed. So whilst some of the agency workers interviewed may have been considered employees on the guidance offered by *Dacas (2004)*, it is now highly unlikely they would be following the guidance in *James (2006)*.

If an agency worker is able to establish that they are indeed an employee they face the additional hurdle of establishing when they became an employee. This is important because the right to claim unfair dismissal has a twelve month qualifying period so whilst an agency worker may establish that they were an employee at the end of their placement, when they became so will determine whether they are able to claim that they have been unfairly dismissed. [*Royal National Lifeboat Institution v Bushaway \(2005\)*](#) tells us that the claimant was an employee from day one, and in *Dacas (2004)* Lord Justice Sedley concluded that after twelve months a contract of employment would have arisen between an agency worker and the user organisation. In contrast *James (2006)* contends that the passage of time alone will not give rise to employee status. So agency workers face not only difficulty in establishing *whether* they are employees but also *when* they became employees before accessing some employment rights.

Discussion

The lack of clarity in case law means that employment tribunals may have difficulty in establishing whether agency workers are the employees of the agency or the user organisation. Employers and agency workers themselves have even greater difficulty in determining the legal standing of their relationship. In a recent response to the

consultation on agency workers public sector employers noted the uncertainty around agency worker status and pressed the government to clarify the position (BERR 2007).

Agency workers are treated as employees for PAYE purposes but nonetheless are excluded from much protective employment legislation. Whilst a small number of agency workers have successfully established employee status, they are the exception rather than the rule. Following *James (2006)* it seems agency workers will face more challenges in the future in establishing that they are employees. Agency workers often face working conditions that include poor pay, insecurity and intermittent work, despite the important role that they play in the flexible economy they possess none of the security attached to employee status (Wynn and Leighton 2006: 302). Nonetheless, such workers do have some employment rights in relation to health and safety, discrimination, working time, holiday pay and state benefits such as maternity pay and statutory sick pay. The problem with regard to these rights for agency workers is that they can be difficult for them to claim (Stanworth and Druker 2004). These workers have no protection from unfair dismissal, and making a complaint about one of these rights when they are dependant on an employer to provide future work may be problematic.

Whilst a minority of agency workers have contracts of employment with their agency, such as those working for Adecco and Manpower, the additional benefits of their employee status might not assist them in practice. The Information and Consultation regulations provide an example of this; they may give workers the ability to access information and consultation with their legal employer, should they have one. For employees of Adecco and Manpower these rights would give them access to

information and consultation with the agency, but no rights with the workplace employer, even if they had been on placement with them for a matter of years. For subcontracted workers and agency workers the user organisation or client is likely to make the decisions about their continued employment but the regulations only extend to voice measures in the legal employer. Even where they are covered by legislation, it can be challenging for agency workers to access their statutory rights; for example agency workers are entitled to be represented at grievance and disciplinary hearings. The ACAS code of practice for grievance and discipline suggests representation should be by a union recognised in the workplace however, there may be different unions recognised by the agency and user organisation and it may not be clear whether grievance and disciplinary issues are handled by the agency or user organisation. These practical difficulties are typical of the triangular employment relationship that agency workers have with their employers and such matters are not easily overcome.

Present legislation is based on the assumption of direct employment and standard full time work. The need to regulate new forms of employment has come from both the growth in different forms of employment like fixed term working, temporary agency arrangements and other 'semi-dependant' forms of self employment and also the rigidity of the scope of current employment legislation. The Supiot report (2001) recognised the development of workers who are not wage dependant in the traditional sense but that are nonetheless *financially* dependant on an organisation. It suggests that European law may have a role to play in formulating basic rules to ensure basic protection for all financially dependent workers. The rationale for this is based on an understanding of the purpose of labour law as ensuring social cohesion and to prevent a gulf forming between “employees protected under contract and persons working under other kinds of

arrangements that afford less protection”. The report recognises the necessity for labour law to accommodate the changing forms of work organisation in order to achieve its purpose.

Freedland (2003) argues that the concept of a single class of wage dependant employees has always been problematic but that it has been even more so with the changing forms of employment from the mid 1970s. The division between the employed and self-employed in law is conceptually problematic because it is difficult to establish a clear boundary. Freedland (2003) discusses the concept of the semi-dependant worker, that is workers that are currently not accepted as employees because they lack the required level of 'mutuality of obligation' to give rise to a contract of employment and the additional difficulties faced by agency workers because of the non traditional multilateral employment relationships that they have. The division of traditional employer functions over more than one organisation poses difficulties in ensuring that such workers have basic employment protection. Both Freedland (2003) and Davies and Freedland (2007) argue that mechanisms exist for extending protection in multilateral employment relationships but that because of the fragmented nature of UK employment legislation would mean major statutory redrafting to divide responsibility. Both authors argue that the concepts of 'employee' and 'worker' are outdated and need to be replaced by an overarching 'personal employment contract'. This concept would include workers that are currently not identified as employees but that are none the less semi-dependant labour. Such a concept could be used in labour law to redraw the boundary between the self-employed and employees in a way that reflects dependant, semi-dependant and independent employment positions more fairly.

For agency workers, Davidov (2004) notes four options that are available in relation to employment status; temporary agency workers could be the employees of the agency, the user organisation, neither or both. As previously discussed, examples of workers being employees of the agency, the user organisation and neither exist across the EU. Davidov (2004) argues that the UK is unique because of the absence of systematic legislation to prevent employers from avoiding responsibility for their workforce by using temporary work agencies. Nonetheless, he argues that there are problems with the alternative approaches available. As previously mentioned, in the majority of the EU countries agency workers are considered employees of the agency. Where agency workers engage in frequent successive placements lasting only a few days each they will normally experience more enduring relationships with the agency than with any user organisation. In such cases, a worker will be economically dependant on the agency because it is the agency that will decide whether she is offered future placements when one has ended. In these cases, taking the user organisation as the employer means that workers will normally lack the service to gain many employment rights and it ignores the fact that workers may have a longer term relationship with the agency. Taking the agency as the employer recognises the economic dependence and may allow such agency workers to amass sufficient service for some rights and potentially to bargain collectively with the agency. Davidov (2004) notes that increasingly agency workers are used by user employers for longer periods. Where agency workers remain in a single placement for an extended period rights with the user organisation become more relevant. It will be the user organisation rather than the agency that determines the duration of placement, the terms and conditions of employment, how work is done and the user organisation will have a strong influence on pay level. Without the benefit of employee status with the user organisation agency workers will be without the

protection of employment legislation in relation to the user organisation. Davidov (2004) argues that employers are increasingly using long-term agency labour precisely because it allows them to escape legal responsibility for these workers. For agency workers who work in successive short-term placements, employee status with the agency is helpful, however with the increasing use of long-term agency workers, employee status with the user organisation could provide workers with additional employment protection and voice mechanisms. In the context of varied relationships between agencies, workers and user organisation employer responsibility is most appropriately borne jointly rather than by one party of the other (Davidov 2004). Rather than dividing areas of responsibility between the agency and the user organisation as Deakin (2001) does, Davidov (2004) suggests that across the board both the user and agency should be responsible.

Davidov (2004), Freedland (2003), Deakin (2001) and Davies (2007) all conclude that the present state of UK labour law offers little protection to workers with triangular employment relationships. They argue that greater consideration needs to be given to the boundaries between self employment and employment for dependant and semi-dependant workers, including those that have triangular or multilateral employment relationships. All three authors argue that a joint employer solution is required to remedy the difficulties faced by workers who experience multifaceted employment arrangements. Davies (2007) points out that some employment legislation already divides responsibility for workers across more than one organisation, like in the case of health and safety or discrimination, and that such provisions would enhance protection if extended to other areas of employment law.

Davidov (2004) argues that user organisations use agency workers to avoid legal responsibility for their staff as agency workers are used to undercut directly employed staff by creating a lesser class of workers with poorer pay and conditions of employment. Such workers, he argues, present less of a threat to directly employed staff and as such to productivity and cooperation, because of their obviously inferior status. He also argues that some firms employ agency workers to avoid legislation that applies only to companies with over a fixed number of employees, where agency workers are employees of the agency they will not count towards this number.

While it is clear that the legal status and position of agency workers is important, it is possible to overestimate its importance to employers' labour use strategies. Dickens (2004) notes that strict regulation of standard employment may provide part of the explanation for changes in the employment relationship as employers create jobs outside the scope of protective legislation. Rather than a desire for flexibility being the only driver towards greater use of atypical workers Dickens (2004) suggests that some employers use atypical workers because there are cost and other advantages that they accrue from these workers being excluded from some legal and social protection. She argues however that, whilst labour regulation may help to shape employer strategy towards non-standard work more broadly, it is possible to overestimate the impact. She cites the example of part time work, and the fact that there was no decrease in the level of part time work in the UK with the extension of mainstream employment legislation to part time workers (Dickens 2004). Whilst legal factors appear to influence changing forms of employment they are only one of a number of influences both internal and external to the organisation. The next section moves on to consider the drivers to the use of agency workers.

Why employers use atypical workers

How agency workers are deployed and why they are used by employers is an important issue because it determines part of the employers' response to proposed legislative change. Atkinson (1995) argued that there would be increasing use of the flexible firm model with a core of workers on standard contracts and a periphery of non-standard workers that were strategically deployed to maximise productivity and in some cases reduce unionisation and union influence. Traditionally, agency workers tended to be used to cover absence and to manage peaks in workload though some authors have argued that increasingly agency workers are found in roles previously done by permanent staff and that new reasons for using agency workers are increasingly important.

Hunter et al (1993, see Fig 2.4) provide a review of the employer labour use survey (ELUS) conducted in 1987 supplemented by forty case studies. They review the reasons that employers choose to use flexible labour. They use the three ELUS categories for rationales, 'traditional' which incorporated usage for short-term cover, 'supply-side' which reflected the desire of employees and 'new' which included employers responding to labour market uncertainty.

Fig 2.4 Employers reasons for agency use

Reasons	Part Time	Temporary	Agency Temporary	Self Employed
Traditional	81	78	89	73
Supply Side	16	1	6	14

New	3	21	5	13
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Hunter et al (1993)

Hunter et al (1993) found that across the board traditional rationales were cited as the reason for the use of non-standard workers and that agency workers were the most likely to be used for traditional reasons. They note that the largest establishments and SME's are most likely to cite new reasons for the use of agency workers. They found that employers for the most part did not have strategies with only 1/3 of survey respondents suggesting that they had a strategy for the use of non-standard labour. Rather most workplaces used such labour reactively. With regard to the flexible firm model 1/9 of all respondents self reported that they divided their workforce into core and periphery. Hunter et al (1993) suggest that ELUS overestimates the extent of strategic use of non-standard workers. On the basis of their case studies they found little strategy in respect of manpower utilisation and little consideration of the staffing options available. They also found little evidence of differentiated manpower management techniques for core and peripheral staff. They note some limited interaction between the use of non-standard workers and business strategy where pressure prompted employers to reduce labour costs or headcount or where employers tried to protect core workers from extreme fluctuations with the use of a periphery of non-standard workers.

Hunter et al (1993) found that in local authorities agency workers and self-employed contractors were used to cover emergency gaps and in posts that could not be filled or where there were recruitment difficulties because of the rate of public sector pay. Temporary workers were used where future funding was uncertain or in relation to

approaching compulsory competitive tendering. They argued that spending constraints and compulsory competitive tendering were likely to be a feature of the public sector for the future and to affect decisions of manpower planning. The next chapter will point to the way that funding pressure in the public sector has continued and the pressures that it has placed on staffing.

Stanworth and Druker (2006) provide a more recent review of rationales for the use of agency workers. Based on in depth interviews within twelve companies they examine whether there has been a radical change in the reasons offered for using agency workers. They analyse the use of agency workers on two dimensions; whether their use is planned or ad hoc, and whether they supplement or substitute for permanent staff. They found a variety of practice across their case studies from 'traditional' agency users that tended to be ad hoc, using agency workers only intermittently, while other firms had moved towards a planned and in two cases procurement cost driven approach to use of agency workers. They noted that several of their case studies were or had moved from supplementation towards substitution in their use of agency workers for a variety of reasons including as a buffer against uncertainty, because of resource constraints and because of headcount limitations. They suggest that in contrast to the historical picture of agency work as a short-term manpower solution a number of their case studies were using agency workers in very long-term placements. A contrast to the move towards substitution and long-term use was provided by several of their case studies who were committed to minimising the use of agency workers within their organisations. They suggest that traditional use of agency labour for short-term cover and to meet fluctuations in demand are still important, however that in some sectors there has been a radical shift to planned use of long-term agency workers in roles previously carried out

by permanent employees.

Purcell et al (2004) identified that while in the labour market as a whole agency workers tend to be used for traditional reasons such as short-term cover however within their study of the healthcare and IT sectors they found employers substituting agency workers for directly employed staff as part of a medium to long-term strategy.

There is evidence of the use of agency workers for both 'traditional' and 'new' reasons. Research shows increasing use of agency workers to substitute for permanent staff. This is likely to have implications for the response of employers to increased regulation in the area of agency work, and for the nature of agency roles which will be discussed in the following section.

Understanding agency work

Agency work falls within the ambit of non-standard employment, a diverse and heterogeneous category covering anything from part time permanent workers to fixed term employees, home workers, casual workers and agency staff. McGovern et al (2004) argue that “the growth of non-standard forms of employment has fuelled the spread of bad jobs”. Other authors (e.g. Purcell and Cam 2002) have argued that there is little doubt that agency work has in the main offered workers less desirable terms and conditions than their permanent counterparts. They identify the lower levels of earnings, less job security, lower union representation and less access to collective bargaining.

It has already been noted that the composition of the agency workforce is diverse. This diversity carries through to the reasons that agency workers themselves gave for undertaking agency work. Whilst there is little detailed UK research into why agency workers select agency working, BERR (2008) indicates that around 60% of agency workers would prefer a permanent job.

A number of authors (see amongst others Guest 2004, Forde and Slater 2005, Davidov 2004, Dickens 2004) refer to two groups of agency workers; one being typified as vulnerable workers who are poorly paid with little access to training and no job security, and the other being described as 'free' knowledge workers with boundary-less careers. Whilst these categories are not always portrayed as exact and separate, analysis and discussion often centres around the assumptions that workers fit in one of the categories. Even in sectors like social care and IT where both groups coexist research tends to focus on one group or the other. Concern from the trade union movement focuses on lower level precarious jobs and issues of low pay, exploitation and insecurity (TUC 2007, Unison 2007, CWU 2007). The European Trade Union Confederation (ETUC) (2005) argues that “compared to all other forms of employment, temporary agency work has the worst record for working conditions, judged on a number of indicators”. They argue that agency workers have less control over the work that they do, receive less training, are less well informed about safety and have more accidents at work, experience less job security and in general receive lower wages. A number of authors also note areas of disadvantage such as low pay, economic insecurity, lack of access to training and career development, and inferior conditions compared with employees (Stanworth and Druker 2004, Heery et al 2004). In contrast the

Confederation of British Industry (2001) and the Recruitment and Employment Confederation (REC) (2002) argue that up to 60% of agency workers earn more than their permanent counterparts, and that agency work acts as a bridge to permanent employment.

There has been limited UK research into the experience of agency work across the occupational spectrum with authors focusing on IT (Stanworth and Druker 2004, Purcell et al. 2004), nursing (Tailby 2005, Purcell et al. 2004) and recently social work (Hoque and Kirkpatrick 2006). Whilst these occupations may not all bring to mind the entrepreneurial highly mobile and highly paid individuals described as 'free workers' or 'free agents', they are all areas in which there have been tight labour markets requiring workers with professional qualifications or otherwise highly skilled workers. These authors all identified drawbacks with agency working even for 'knowledge' workers such as lack of benefits including sick pay, pensions and holiday entitlement, variable access to training and the possibility of being an agency worker damaging future promotion prospects.

The TUC Commission on Vulnerable Employment (2008) reported on vulnerable workers, the issues that they face and the steps that could be taken to assist them. They define vulnerable work as “precarious work that places people at risk of continuing poverty and injustice resulting from an imbalance of power in the employer-worker relationship”. This definition of vulnerable work means that many agency jobs would be described as vulnerable, including some in this study. This is the image of agency work that is often discussed by trade unions and policy makers and portrayed by the media. What follows is a discussion of the position of agency workers within the UK.

Hoque and Kirkpatrick (2003) reviewed Workplace Employee Relations Survey 1998 data to consider the implications of non-standard working on access to training and development in the workplace and consultation. They review the aforementioned arguments with respect to the potential for some workers escaping the drawbacks of non-standard working because of their labour market position and valued skills set against the arguments that such workers still experience the marginalisation related to non-standard work. In terms of training, development and consultation they point to three factors that are cited as reasons that non-standard workers may experience marginalisation. Firstly, because managers adopt an instrumental approach, minimising investment in non-standard workers, and secondly, management decision making can be influenced by stereotypes of non-standard workers as less committed and reliable. Finally the practical difficulties with managing non-standard employees can present difficulties and add to their experience of marginalisation. Their findings indicated that professional and managerial non-standard workers find it more difficult to access training and development and find it more difficult to access workplace consultative arrangements. They note that the effect is particularly strong for female non-standard workers with respect to training and development, while for some male temporary workers it is almost negligible.

While in general Stanworth and Druker (2004) found that disadvantaged groups were unlikely to gain access to the labour market through agencies, they did find them able to successfully sell the skills of older workers facilitating re-entry to the labour market for this group.

While for many workers agency work is taken because they are unable to find permanent jobs, this is not always the case. For some people agency work is chosen as an alternative allowing flexibility and occasionally higher levels of pay. Stanworth and Druker (2004: 67) argue that "the element of respectability and choice offered by tempting work must be set against the price paid at one and the same time by the interviewees, in terms of the transitory nature of the assignment, the marginal position in their assigned firms, their lack of employment rights and generally poor pay levels."

Even where agency work has acted as an aid to re-entering the labour market it does so on a "disadvantaged basis compared to conventional employees." (Stanworth and Druker 2004: 68). It generally offers poor pay, little training, few benefits and very little opportunity for career advancement but it does offer an entrance back into the labour market. For agency workers, their precarious employment status gives them very little capacity to challenge the decisions of the hiring organisation and they are unlikely to be supported by a trade union as even where trade unions recruit agency workers, few are members. (Druker and Stanworth 2001: 75)

Tailby (2005) reviewed the position of agency (bank) nurses within the NHS based upon published survey data and case study based interview data. She notes that agency work can be taken as a primary or secondary job and that 57% of nurses registered with agencies had no other nursing job. She notes that Bank nurses may be able to more easily manage their non-work commitments than if they were engaged on a part time contract but that there are also significant disadvantages. She suggests that, although pay rates may compare favourably, agency or bank nursing as a primary job is insecure, lacking in employment protection, and that workers may enjoy fewer benefits and less

training. For staff taking on additional shifts through the bank or agency it offered the ability to supplement earnings, or work additional hours that suited the individuals non work commitments. Tailby (2005) notes that none of her interviewees would take agency-only nursing employment by choice because of the disadvantages of doing so.

Hoque and Kirkpatrick (2006) consider the growth of agency work within professional roles in the public sector and look at the extent to which the growth is linked to the 'free agent perspective'. Their research is based upon twenty eight interviews with agency social workers, Unison, BASW and social work and agency managers. They recognise that the scarcity of qualified social workers in the labour market has generated a pull towards agency work. Agency workers and managers in their study identified that they could be paid up to £5000 more per year than an equivalent directly employed social worker. Their respondents also noted the other benefits of agency working such as being able to build up varied skills and being able to flexibly manage work commitments. Despite the advantages of agency work Hoque and Kirkpatrick (2006) found that their respondents did not see it as a long-term career option. Like the agency nurses in Tailby's study (2005) there was a perception that permanent contracts were better despite the financial advantages of agency work. The benefits of permanent work such as access to pension schemes, sick pay, service related additional holiday entitlement and assistance with childcare that did not apply to agency work made workers question whether they were financially better off as agency workers.

Hoque and Kirkpatrick (2006) identify the experience of marginalisation affecting some agency workers in relation to access to training, supervision, workplace support networks and that many agency social workers reported being assigned the most

unpleasant work. They identify that some of these difficulties may be remedied by agencies, though their informants suggested that “agencies were opportunistic, seeking to charge the highest fee possible while offering only minimal support.” (Hoque and Kirkpatrick 2006: 658). They argue that some support was offered for the 'free agent' perspective as a draw to agency work for social workers; however they also identify factors pushing social workers away from permanent contracts. The division of social work into specialisms where workers focus on a particular client group served to push new social workers towards agency work so that they are able to access varied experience. They argue that some agency social workers use agency work to escape the bureaucratic rigidities of organisational life in the local government sector where changing specialisms as a permanent employee is difficult. They suggest that some agency workers use agency work to broaden their skill base. They further argue that agency work is used as an escape when organisational demands become too great with workers being aware that they can exit the user organisation very quickly. They suggest that some workers also use agency status as a mechanism to maintain distance between themselves and the user organisation. Hoque and Kirkpatrick (2006) found that the 'free agent' perspective does not comprehensively explain the reasons for people becoming agency workers; they point to the degradation of permanent employment in a variety of settings and find that it is a factor pushing people to move to agency work.

Booth, Francesconi and Frank (2002) looked at temporary jobs in Britain and consider whether they are stepping stones to permanent employment or traps into which individuals fall. They found that temporary jobs generally paid less, offer less work related training and in some areas were less satisfying. They found that male workers suffered a 5% wage loss when starting in a fixed term contract, while women fully

caught up with their comparators that had always had permanent contracts. The wage differential was even starker for casual and seasonal work, even after ten years of full time experience there was a wage penalty of 12.3% for men and 8.8% for women who had held just one casual or seasonal job. They conclude that fixed term contracts but not casual or seasonal employment, acted as a stepping stone to permanent work.

Gray (2002) reviews the use of agency work as a bridge to employment for unemployed people. She reports on data from interviews with job seekers, temporary work agencies, and job centre and job club staff. She found that agency workers were sometimes used to cut payroll costs, to minimise recruitment lead time and cost, to reduce the need to train staff, to evade protective employment legislation, and to provide a buffer to protect permanent employees. She found that agencies were willing to register and place job seekers who were unemployed, though some barriers existed in places that presented issues for certain types of workers. She noted barriers were in place in some agencies for candidates with 'cockney', 'foreign', or 'black British' accents, particularly in respect of central London office jobs, while other agencies tried to persuade their clients to consider workers on their 'real merits', rather than race or class. She notes the business imperative for some agencies to practice good equal opportunities policies in light of labour shortages in the London region and identified one that offered a course for migrant workers with poor English but others that turned away workers with poor English language skills. Her findings suggest that agencies can assist some groups of 'disadvantaged' workers such as those with criminal records or the long-term unemployed, and by withholding the home address of workers they can prevent those workers living in poor or disreputable neighbourhoods from discrimination. She also found evidence of agencies promoting older candidates to users but “deplorably little

interest in helping candidates with disabilities” (Gray 2002: 669). She argues that for some workers agency work offers easier access to some roles than direct recruitment. She suggests that this is primarily the case where there is a shortage of candidates and it is in the agencies interests to downplay or conceal factors like work history or age, and to resist race discrimination by clients. She argues that where competition between agencies and job seekers is fierce wages are driven down and work is characterised by poor pay and conditions but that in other areas agency work can provide workers with higher pay than permanent staff and offer an easier route into employment for unemployed people.

Forde and Slater (2005) reviewed the idea of agency work being a bridge to permanent employment using Labour Force Survey data. They found 48% of the sample had moved to permanent work, while 38% remained in temporary employment, 7% became unemployed and 7% left the labour force. Less than half of all agency workers in the study made the transition from agency work to permanent work.

Forde and Slater (2005) offer the most comprehensive quantitative review of agency work in the UK using the Labour Force Survey, looking at the characteristics of agency work and its consequences. They found that 51% of agency workers were female, a relatively high proportion were between 16 and 24, and over 25% were recent labour market entrants. In terms of occupation, 66% of agency jobs were found in secretarial or routine operative jobs, in contrast 'knowledge workers' made up a very small number of agency jobs. Public sector professional workers are three to three and a half times more likely to be agency workers than sales workers (the base group in the study) but knowledge workers outside the public sector are less likely to be agency workers. They

found the strongest links between agency work and low paid occupations as well as public sector occupations. They paint a picture of agency work dominated by low pay, little choice and limited ability to move from agency work to permanent roles. They identify that where agency jobs are taken involuntarily (because there are no other jobs or because they are the best available jobs) they are the most problematic with workers receiving the lowest pay.

The US literature around contingent working and particularly contracting or agency work is more developed. It is important to note the key differences between the UK and US systems before delving into this literature. The differences between the provision of social welfare in the UK and US contexts affect the experience of insecurity. While within the UK health care is provided by the state, within the US employers are responsible for providing their permanent workers with it and other legally proscribed benefits. This means that the consequences of job insecurity for US workers are more far-reaching than their UK counterparts.

Kunda et al (2002) bring together the two opposing views on contractors and agency workers, contrasting the 'employment relations' and 'free agent' perspectives. The employment relations thinkers, they suggest, see agency work as exploitative and a social problem with workers receiving fewer benefits and lower pay. They warn that contingent employment exacerbates economic insecurity by lowering wages, abetting discrimination, eliminating access to benefits, undermining opportunities for collective action, and, ultimately, exposing people more directly to the whims of employers and the ravages of economic cycles" (Kunda et al 2002: 255). Research in this area has largely been focused on the low paid end of agency work and contracting with workers

describing an array of problems and few benefits. In stark contrast, the free agent perspective views agency work from the experience of highly skilled contractors. They argue that entrepreneurial individuals are able to 'recapture' some of their previously lost surplus value from their employers by working independently or as agency workers/contractors. "Free agents, they claim, have more autonomy, accumulate more wealth, and enjoy a more holistic lifestyle than employees" (Kunda et al 2002: 255) Kunda et al (2002) argue that neither perspective is sufficient to understand the diverse range of contractors because each focuses primarily on one type of worker and that even within these confines they do not explain the diverse experiences of these workers fully. In their study on high skilled technical workers, they found considerable difficulties with both the employment relations and free agent understanding of agency workers. They found that workers selected agency status for a variety of reasons and that workers had divergent experiences of work that were not captured by either perspective. Some of the drawbacks of agency work which are acknowledged in relation to vulnerable workers are also cited by the highly skilled workers in Kunda's (2002) study; for example insecurity, particularly in relation to access to healthcare and other employment related benefits and lack of access to company provided training.

The UK and US literature seems to agree that the opposing views of agency workers as vulnerable on the one hand and privileged on the other does not paint a realistic picture of agency work in general. Each provides a caricature of agency workers presenting them on the one hand as victims bereft of the advantages of a typical employment relationship and on the other as opportunistic, entrepreneurial individuals taking advantage of tight labour markets. The literature does not present a nuanced view about how these workers differ and what affects their different experiences of agency work.

Summary

This section has provided an introduction to the literature related to the first two themes. It introduces the location of agency work in the UK labour market, its regulation, the position of agency workers, and the diversity of the sector in terms of the agency workers themselves and their agencies.

In relation to the first theme of the thesis addressing the nature of the triangular relationship this section has laid out the legal context within which the triangular employment relationship is set. It outlines that the regulation of agency work in the UK is minimal compared with other EU countries. The employment status of agency workers is difficult to assess which means that access to employment protection afforded by status is difficult to claim. The recent adoption of the the Directive on Temporary Agency Work (Directive 2008/104/EC on Temporary Agency Work 2008) and its forthcoming transposition in the UK law will extend some protection to agency workers employed for over 12 weeks. These regulations will not affect the majority of agency workers that spend fewer than 12 weeks in a placement.

The second theme of the research looks at the heterogeneity of agency work. This is carried forward in this section with a discussion of the the context for agency workers in the UK labour market. It reports the difficulty in accurately assessing the number of agency workers, but estimates between 1.1 and 1.5 million (BERR, 2008). These workers are employed across the economy in a range occupations and industries and on assignments of varying length. The agencies that place these workers differ in size from

a few very large companies that dominate the sector like Adecco and Manpower to a large number of small agencies. The employment position of agency workers is discussed concluding that there are typically 2 views of agency work. The first indicates that these workers experience low pay, lack of training, poor health and safety record, economic insecurity and inferior pay and conditions. The second identifies the role of agency work as a bridge to permanent employment, and suggests that some agency workers receive higher pay than their permanent counterparts.

Agency workers, voice and exit

Hirschman (1970) lays out the fundamental choice that workers have when faced with a problems at work, exit or voice. He defines exit as simply leaving the organisation, while voice is the expression of dissatisfaction directly to management. There is little research into the propensity of agency workers to exit in response to problems at work. Druker and Stanworth (2004) offer some insight into this area, they refer to frequent references made to the ready availability of exit by the agency workers that they interviewed but also note that in practice it is an option of last resort that was rarely used. They suggest that “the freedom to exit appears then to be limited—and maybe even illusory.” (Druker and Stanworth 2004: 71). Most qualitative research into agency work cites workers discussing the ready availability of exit (see also Tailby 2005); however there has been no systematic study of how agency workers deal with problems at work and whether exit is the most common solution. Druker and Stanworth, (2004) talk about high levels of 'individual resilience' amongst agency workers, though they do not give examples. This suggests that rather than making use of exit or voice at work these workers may simply 'tough it out'.

An alternative to exit from organisations is voice within them. For Freeman and Medoff (1984) in the work context collective rather than individual voice is necessary, generally in the form of trade unions. While in other areas of social and economic life voice can be effective on an individual level (for example dissatisfaction with a service can be dealt with by individual complaint), in the work environment collective rather than individual voice is important. Freeman and Medoff (1984) suggest two main reasons that, in the work context, collective rather than individual voice is necessary. In the main, changes in work environment or conditions accrue to the work group and not just the individual. They suggest that collective organisation is important to provide such changes. Their second argument is that individual workers voicing problems at work may have their employment terminated whereas there is legal protection for workers who choose to be union members.

In addition to the option of collective voice through a trade union, Druker and Stanworth (2004) argue that the agency may offer some support to agency workers in raising problems at work. Agency workers in their study suggested that small problems would be resolved at the workplace but that the agency would be in a position to assist if there were serious problems. The suggestion was that the agency would assist workers in resolving the problem by finding them another assignment. However they note that of the three agency workers in their study who had left an assignment due to problems at work, two had changed agencies as well as user organisations. Agency workers themselves noted the power of the relationship between the agency and their customer (the user organisation) and some argued that the agency would be unlikely to be willing to assist them if it meant sacrificing a client contract.

This thesis is concerned with the concept of voice in both its collective and individual forms. It investigates the impact of the particular relationship that agency workers have with their two employers on their ability to have their voices heard at work both individually and via representative mechanisms. Debates around employee voice have been numerous in both the Industrial Relations and Human Resource Management literature and definitions differ both between and within the literatures. While HRM literature tends to centre on voice as facilitating organisational commitment and offering employees a choice, IR literature tends to link voice to industrial citizenship (Wilkinson et al 2004). There is little agreement on what is meant by employee voice. Wilkinson et al (2004) present two continuums to capture the complexity of voice arrangements. These are direct to indirect (individual employees themselves to collective organisations such as trade unions) and shared agenda to contested agenda. They argue that these are two axes over which voice arrangements should be conceptualised. These axes say nothing about power or the relative strength (or perhaps loudness) of voice arrangements and are separate from their scope, impact and level. Nothing is said about the relative efficacy of direct versus indirect voice.

Freeman and Medoff (1984) identify twin strands of voice. Firstly they noted that participation could have a beneficial effect on productivity and quality, secondly they suggested that offering workers an opportunity to express problems may defuse situations that could otherwise have exploded. They argued that to be effective voice should be both representative and independent of the organisation and that trade unions are the best voice agents. They further argued that the presence of trade union voice would reduce exit.

This thesis is primarily concerned with how agency workers are able to make use of voice at work to resolve workplace problems. The extent to which agency workers have the opportunity to act using voice mechanisms either provided by their employers, or by using representative voice where it is available.

Union voice

Discussions of union voice must be set in the context of the present position of the union movement. It is necessary to explore the extent of recent union decline and its impact in both the public and private sectors.

Table 2.5 – Trade union density for public and private sectors

Year	Density (%)	Public sector Density (%)	Public sector Density (%)
1995	32.6	61.5	21.6
1996	31.7	61.1	20.9
1997	31	61.3	20.2
1998	30.1	61.0	19.5
1999	29.8	59.9	19.3
2000	29.7	60.2	18.8
2001	29.3	59.3	18.6
2002	29.2	59.7	18.2
2003	29.3	59.1	18.2
2004	28.8	58.8	17.2
2005	29.0	58.6	17.2
2006	28.4	58.8	16.6

Taken from Grainger and Crowther (2007)

Since its peak in 1979, when it stood at 55.8%, there has been a consistent downward trend in union density with the exception of a slight rise in 2005 followed by a greater drop in 2006 (see Fig 2.5). While membership decline has slowed it continues to fall.

Union decline has been most severe in the private sector but has also occurred in the public sector.

The scale of union decline has prompted debates on the future of the trade unionism. In particular the increasing participation of women in the labour market, the decline in manufacturing and growth in the service sector and changes in the nature of employment have prompted questions about how unions can remain relevant to a changing work environment and changing workforce. The growth in atypical workers and the challenges that they present to the union movement is one of the primary areas in which this debate has occurred. Union density for atypical workers tends to be lower than for their typically employed counterparts, as shown in fig 2.6.

Fig 2.6 Trade union membership density for temporary and permanent workers

Sector	Total	Permanent	Temporary
Private	16.6	17.1	8.0
Public	58.8	61.1	32.7

Taken from Grainger and Crowther (2007)

Fig 2.7 Trade union membership density for full time and part time workers

Sector	Total	Male FT	Female FT	Male PT	Female PT
Private	16.6	20.7	14.8	7.2	11.0
Public	58.8	64.4	65.7	33.7	46.0

Taken from Grainger and Crowther (2007)

In both the private and public sectors union density is around twice as high for permanent workers as for temporary workers, similarly membership density for full

time workers is far higher than for their part time counterparts.

Agency workers rarely join trade unions and their terms of employment are rarely set by collective bargaining. Delsen (1990) suggests that a cause of the continuing weakness of the labour market position of these workers may be their historical rejection by trade unions, as trade unions do not bargain for them. In practice, as Erickson et al (2002) note, it is difficult for trade unions to organise workers when the 'employer' is elusive and where responsibility for them is shared between several labour market actors.

A number of authors (for example Meager et al 2002, Booth 2002, Healy et al 2004, Brown 1993) have established that unionised workers are more aware of their employment rights, enjoy higher pay, better health and safety records, higher levels of contractual security, greater access to consultation and employee representation than their non-unionised comparators. For agency workers, this could be crucial as the case law on their employment status evolves but also in light of the recent agreement paving the way for equal treatment legislation covering agency workers.

New Understanding of European Work Organisation (NUEWO) (2003) considered the consequences of the use of agency workers and other contingent labour on trade unions. It found that trade unions were challenged by the presence of contingent workers because they could undermine trade union policies, compete with permanent workers to lower wages and are less likely to join trade unions. Olsen (2005) suggests that the inclusion of atypical workers in the workforce can lead to segmentation which fractures collectivism and may weaken the position of the union. She further argues that the levels of unionisation amongst atypical workers in general and workers employed through employment intermediaries particularly is far lower than for their permanently

employed counterparts adding to the weakening of the collective identity and the union. Other research (Goslinga and Sverke 2003, Delsen 1990) suggests that temporary agency workers are under-represented in unions both because they are difficult to organise and because unions traditionally have been reluctant to accept new forms of employment relationships. Goslinga and Sverke (2003) compared permanent full time workers with temporary and part time workers in three European countries. They found very limited differences in attitudes between these workers in terms of their attitudes to trade unions. They postulate that an explanation for the low levels of union membership amongst atypical workers, and in particular temporary workers, is that they may experience more changes in job and periods of unemployment which may affect their likelihood of exiting the trade union. They argue that the structure of representation (i.e. workplace, occupation or industry) may be important in determining unions' ability to retain members who change jobs or companies.

As with other temporary work arrangements, agency workers are likely to find themselves in short-term placements. The reluctance of most UK unions to organize unemployed workers means that membership is likely to lapse when workers become unemployed. Also the structure of representation in the UK, which is generally based around workplaces and/or geographical branches, may make the unionization of workers who change jobs and frequently experience periods of unemployment problematic.

The trade union objection to agency works, found in the previously mentioned research, was primarily directed at temporary work agencies, which they viewed as parasitic. For some unions, it also extended to agency workers themselves whose interests were not

considered legitimate and who were considered to pose a threat to unionised workers (see also Heery 2000). Over the course of the union decline of the 1980s and 1990s, the case was made for inclusion; pragmatically for reasons of survival and growth but also ideologically as they were recognised as victims of casualisation. Heery (2000) notes the presence of debates over agency workers in trade union conferences through this period. Some unions (CWU & PCS amongst others) have suggested that for some people agency work can be both legitimate and chosen, that these workers have different needs in terms of representation and that they are not victims or parasites. In the main “flexible labour contracts are met with considerable reserve since they weaken the position of the individual employee and reduce the ability of trade unions to negotiate secure wages and working conditions” (Delson 1990: 263). An important challenge for trade unions is to analyze the competing pressures and decide whether to accept agency workers as part of their constituency or whether to try to exclude them both from the union itself and the job and labour market more generally (Heery et al 2004).

Pragmatically, there are advantages to recruiting any group of unrepresented workers, bringing them into membership may help the trade union movement to reverse the severe decline it has suffered over the last twenty five years. Significant changes have occurred in the composition of the workforce over the last three decades coinciding with the decline of traditional industries and the rise of the service sector. Related to this, there has been an increase in atypical work. As such, trade unions had to contend not only with compositional changes in occupation and industry but also with more challenging changes in the nature of employment. The inclusion of agency and other atypical workers who are a growing part of the economy may halt and reverse

membership decline.

Ideological reasons also figure as a rationale for recruiting and representing this group of workers. Some trade unions have recognised that “agency and other non-standard workers were owed solidarity as it was they that were bearing the brunt of labour market change” (Heery 2004: 445). Whilst trade unions have not always effectively recruited and represented the most vulnerable workers within the labour market it is certainly ideologically within their remit. Many trade unions have focused attention on the plight of migrant workers, many of whom are engaged through agencies at the low wage end of the spectrum. Whilst not explicitly linking the agendas to support vulnerable migrant workers and those to support agency workers, often migrant workers are working in agency roles (NUEWO 2003)

Whilst there are clear advantages to recruiting these workers, there are also challenges. “The presence of non-standard workers may threaten the interest of existing union members through the undercutting of negotiated terms of employment.” (Heery et al 2004: 127). If parts of the union movement are ideologically or more commonly practically opposed to agency work then it is difficult to justify recruiting agency workers into membership. The recruitment, retention and servicing of agency workers is problematic and costly, particularly considering that they are a group that may not remain in membership for long due to the precarious nature of their employment. Their insecure employment position may also prevent them from taking part in collective action and may, as such, undermine union solidarity. Some trade unions have an introductory period before people that have joined become full members. As such people that subscribe to a trade union may have to wait for a period before becoming a

member and becoming entitled to representations. Such rules may have a particular impact on agency staff many of whom remain with one employer for under three months (Arrowsmith 2006). If agency workers are unable to take part in industrial action and will not be represented when new members it may be that it is not in their interests to join as unions in their current form will be unable to meaningfully represent them.

Rubery et al (2005) argue that for outsourced workers union organising across different contracts does not offer leverage for new recognition or bargaining agreements. Similarly organising agency workers will rarely offer trade unions the opportunity to gain statutory recognition because they are dispersed through the organisation, are often employed by different agencies, and are often in post for short periods of time.

Other reasons that agency workers may be particularly challenging for trade unions to recruit and represent revolve around their lack of employment rights. Heery (2004) notes that the extension of employment rights to groups of workers that were previously unprotected (fixed term contractors and part time employees) has acted as a lever for collective bargaining. Legislation has acted as a stimulus for the inclusion in the trade union agenda of these non-standard employees; however the case is more difficult for agency workers as they have neither employee status, nor the right to equal treatment. In addition to its role in offering workers the option of legal redress legislation is important for two key reasons; firstly, it provides a range of rights on which workers can be represented. Secondly, it provides an incentive for employers to negotiate with trade unions around the treatment of atypical workers. The lacuna in employment protection leaves temporary agency workers without a statutory 'floor of rights', and in so doing

without the lever for union representation that those rights give other non-standard workers, making them a particularly problematic constituency for trade unions.

The measures taken to recruit non-standard or atypical workers have varied between unions and the particular groups of non-standard workers involved. As previously discussed the term “atypical work” applies to a wide variety of working situations ranging from home-working to contracting and, on the whole, the trade union response to the different types of atypical work tends to link with how far the needs of the workers involved deviate from the perceived needs of the ‘traditional’ union member. Heery et al (2004: 148) found that “variable union responses to non-standard work reflect the degree of contingency of different forms and the consequent ease with which representation of non-standard workers can be integrated with that of workers in standard employment.” This thesis is specifically concerned with the trade union response to agency workers and their employers, where work is highly contingent and for whom representation may be problematic. These workers have presented trade unions with a particular challenge.

Heery et al (2004) comment that, for agency workers, the barriers to union representation and integration with existing union members may be higher and thus they appear a less attractive group to trade unions. Heery et al (2004) suggests that there was a pattern of increasing engagement with most non standard workers with unions moving from a position of exclusion to one of inclusion and engagement. However of the groups they examined, exclusion was most prevalent for agency workers. They found that a dual strategy had been undertaken in many workplaces with representatives simultaneously restricting numbers of agency workers and insisting that those who were

allowed received equal pay and conditions to standard employees. In this way the trade union can be seen to be protecting their core workers by preventing agency temps from undercutting terms and conditions but also giving some agency staff a degree of representation.

In the 1980s a policy of resisting the use of agency labour was pursued but when the policy proved impractical TUC affiliates agreed that a policy of recruitment and representation was the preferred option (Druker and Stanworth 2004: 230). The policy agreed by TUC in 1987 of improving the pay and conditions of agency (among other) workers has proven to be difficult to implement in the case of agency workers (Ibid). Within the UK the organisation and representation of temporary agency workers continues to be problematic. “The Trades Union Congress' agency workers' campaign demonstrates an inability to turn the tide of insecure labour use” (Burgess and Connell 2004: 15)

Agency workers are experiencing the same sort of rejection by the trade union movement that other groups, who now form part of the movement, have had to overcome. Unlike other groups (notably Black and Minority Ethnic and female workers) they experience contractual and legal factors making them more difficult to organise and represent within the system of workplace unionism in the United Kingdom. The additional issues to representing this group may mean that they do not make the move from exclusion to inclusion experienced by women and Black, Asian and Minority Ethnic workers within the trade union movement identified by Heery (2004).

Heery et al (2004) found that declining unions have sought to recruit non-standard workers. Some trade unions (Transport and General Workers Union (T&G) (now part of Unite), Communication Workers Union (CWU)) have publicly stated that they intend to recruit and represent agency workers. Action ranges from political lobbying to increase the regulation of agency work, such as putting pressure on the Labour Government to withdraw their objection to the Directive on Temporary Agency Work, to workplace representation. The CWU has concluded a recognition agreement with Adecco to cover agency workers within BT's workforce and represents them through a separate division of the trade union. They considered that these workers had different needs to the majority of their directly employed membership and as such sought to represent them differently. Dromey (2005), at the time deputy general secretary of the Transport and General Workers Union, in his address to the TUC on organising stated that "there should be no more workplaces where the directly-employed are organised but temporary, casual and agency workers are not". The emphasis on the recruitment of these workers will not necessarily lead to an identification of the different needs of this group, the different collective agenda that they may have and the problems with workplace representation when the workplace may change on a week by week basis. Barring a notable few (T&G, CWU), trade unions in the UK have not sought to represent agency workers as a constituency that may have specific needs. They have not formulated a collective agenda that is tailored to this group.

For a large number of agency workers, the trade union movement does not provide a channel for collective voice because these workers are either ignored or explicitly excluded. This has real implications for their unionisation potential; if unions are not recruiting these workers, who is? Can agency workers have a collective voice? Is the

trade union movement imposing a collective silence on these workers by failing to organise them?

Even where agency workers are unionised and their employers have agreements with trade unions, the scope of these agreements is generally extremely limited. Stanworth and Druker (2004) note the presence of collective agreements between trade unions and the two largest agencies (Manpower and Adecco). However, they further note, the minimal coverage of these agreements with few extensions to statutory employment rights. Heery et al (2005) discuss the long standing relationship between Manpower and the TGWU and the commitment of the company to the promotion of unionisation. They argue that the partnership agreement has produced only modest gains for members. Unionisation levels have been very low. Membership levels are higher and conditions better where trade unionism in the client firm lent support to the agency workforce, but this relies on both agency and user organisation support. Heery et al (2004) argue that TGWU wants to use its agreement with Manpower to raise standards across the sector and squeeze out rogue agencies; a goal it also pursued by lobbying for greater regulation. While TGWU's agreement with Manpower offers only modest gains with no regular wage bargaining and limited scope to improve conditions for most workers it nonetheless offers an improvement on the statutory minimum. For many agency workers, particularly working for the array of small agencies within the sector, access to their basic legal rights would be an improvement on the current position.

Within the UK, we have a system of decentralised collective bargaining and workplace representation; however it is also important to recognise the other levels of union representation including national and sectoral bargaining and political lobbying. In

spite of the presence of other levels of representation, within the UK the workplace remains the focal point for worker representation and it is at the workplace that the representation of agency workers is most problematic. We have identified the potential difficulties of the triangular relationship in identifying which party is responsible for the management of these staff. Issues of capability, discipline and grievance could be managed by either the user organisation or the agency but for most organisations there is no clear agreement between the agency and user organisation as to who is responsible for the management of these issues. Frequent changes in workplace and potentially which unions are recognised can prevent agency workers from identifying with a trade union and ultimately from becoming union members.

Mobilisation theory

Mobilisation theory offers a means of analysing the ways in which workers respond to workplace problems, and in particular the way in which they collectively mobilise. It also offers explanations for how and why workers act on dissatisfaction at work. It breaks down the process of resolving problems at work to offer insight into the process of mobilisation.

Mobilization theory has its starting point in dissatisfaction. Kelly (1997) argues that workers must feel a sense of injustice at their current circumstances but unlike dissonance theories, mobilisation theory has a number of other important elements. Employees must be able to attribute their dissatisfaction with work to their employer and must feel that there is a collective resolution to their situation. "It is not enough for employees to feel aggrieved: they must also feel entitled to their demands and feel that

there is some chance that their situation can be changed by ‘collective agency’” (Kelly 1998: 29). In addition to injustice and attribution mobility theory relies on the presence of leaders as they play a critical role in collectivising workers and encouraging group cohesion.

Kelly (1998) develops the idea of the importance of a collective agenda with his work in mobilization theory; which applies to unionisation as well as collective action. It is critical that workers conceptualise a problem or issue as collective rather than individual and that they can envisage a collective solution. It is important for union activists or leaders to construct a collective agenda that enables workers to recognise injustice and attribute it to their employer. Kelly’s (1998 1997) work moves beyond union instrumentality by refocusing attention on the reasons for collective organisation and action at injustice and attribution.

“The logic of social movement theory is that the fortunes of labour movements rest inter alia on the scale of injustice at the workplace, the attitudes of employees towards management and the effectiveness of union organisation and action. People’s beliefs about these issues will in turn depend on the actions and rhetoric of union leaders and their opponents. They will also be influenced by the structural conditions that shape union power, in particular the state of labour and product markets and the forms of legal regulation of union activity.”

(Kelly and Badigannavar 2004: 33-34)

One difficulty of mobilisation theory is its focus on ruling and subordinate groups; it does not take account of the differences within subordinate groups. This means that the

needs and collective agendas of individuals are seen as homogeneous. Generally this will result in the agenda of the dominant group being seen as the collective agenda of all members. For most trade unions, this will be the interests of full time, permanently and directly employed white male members and of those groups whose interests most closely align with this group.

Kelly (1998) suggests that the challenge for trade unions today is the perception that they are too weak to make a difference. He argues that this impacts upon the ability of trade unions to convince workers that they will be able to change things in their own workplace. This in turn makes them less likely to be able to make changes in the workplace therefore reinforcing the original perception.

Kelly's approach has strengths in its starting point of injustice and exploitation rather than employers agendas and its focus is how employees define their interests in particular ways (Edwards 2003). For the group of workers that I will be considering, this starting point is especially interesting as when compared with other workers they can be seen as being disadvantaged. The current literature considers primarily ruling and subordinate groups identifying managers as the ruling group and a homogeneous group of workers as the subordinate, but there is increasing work on the diverse interests of disparate groups.

Differences in interest definition may be important for agency workers, particularly where the interests of agency workers and permanently employed staff are not always consistent and may in fact be conflicting. In these cases, it may be other workers rather than management that resist the achievement of collective aims or the effective outlet of

collective voice for agency workers. This has been observed of both women and black workers in the past, as the trade union movement attempted to exclude both groups from union membership and employment in general (Heery et al 2004).

The emphasis on social class as *the* factor which unifies worker interests does not account for the experiences of exclusion faced by marginalised groups in the past (and present). Hyman (1978 1992 2001) has written extensively on the implications of changes in the composition of the workforce for unions. In particular, and in common with many scholars, he has noted the growing importance of women workers, the growth in the service sector and the increases in atypical forms of employment. If differentiation of worker interests as a result of economic change has undermined traditionally dominant worker solidarity founded upon the norm of manufacturing jobs done by white men, can the diverse interests of workers based upon not only their varied social identities but also the multitude of working arrangements and employment status be reconciled or overcome to reverse the decline in membership and in perceived power? (Heery 2003). Hyman (2001) suggests that some divisions have always been present within trade union development and that there are now new opportunities for collective bargaining to reflect priorities held by these groups. He argues that the introduction of new issues need not undermine the notion that workers have collective interests that are separate from those of management and that these interests may form the basis of broader class based interests and action. Nonetheless it must be noted that worker interests do not always coincide; it may be in the interests of permanent workers for agency workers to be outside the scope of employment protection and the trade union if they are to provide a flexible buffer to ensure the job security of the permanent workforce as in the core periphery model. Within a unionised setting, this may mean

that the collective agenda of agency workers is subordinate to the agenda of permanent employees or pursued only insofar as it is consistent with it.

It is not only the Marxist view of industrial relations that characterises workers or union members as a homogeneous group. Various theories of collective bargaining assume workers interests are equally represented and protected by rules agreed between management and unions. A range of authors have argued that bargaining agendas and collective agreements tend to regulate employment in a way that privileges particular groups, generally white men (Colling and Dickens 2001, Cockburn 1983, Phillips and Taylor 1980). While feminist authors have been very influential in this area, gender is not the only area in which divergent interests have been identified. Demographic differences from age through race, gender, and disability form a basis for diverse interests but divergence is also noted in relation to different types of employment and employment contract.

The literature around the growth in atypical work is often linked to the growing participation of women in the labour market. This debate has included the extent to which the interests of men and women coincide. Many authors (mentioned above) have argued that there is some degree of divergence between men's and women's interests. Such arguments have also been put in relation to black workers and other minority groups.

The key importance of these debates to this thesis is that worker interests cannot be treated as always homogeneous. Indeed different interests may not be reconcilable. While workers may share some interests across racial, gender and contractual divides

such as concern for a safe workplace, others may be divergent. The arguments on the divergence of worker interests come together to suggest that unions must recognise and respond to the changing labour market by identifying agendas that reflect the diversity of issues that different groups of workers have in order to engage with them. Unions must “identify a collective agenda that is appropriate for potential members in under-represented groups and make this agenda available in recruiting them” (Waddington and Whitston 1997: 516). Unions have recognised the need to develop new and tailored agendas to speak to new groups of workers in their use of self organising strategies.

Beyond interest definition, Kelly (1998) talks about the need for workers to find reasons or causes for their sense of injustice, and attribute them to their employer. The way in which workers attribute problems at work has significant consequences for how they are expressed. If workers are unable to attribute problems to their employer, or see them as unchangeable, they are unlikely to act upon them.

Within mobilisation theory, Kelly (1998) talks about the willingness to act collectively as key to union revitalisation. He suggests that some workers see unions as too weak to address problems or make a difference. He notes that this perception has changed in the past, but that the mechanisms by which it changed are not known. Kelly's (1998) focus is on the willingness to act collectively, however mobilisation theory can also be used to identify ways in which workers act individually or chose exit. His theory provides a framework that identifies the stages that workers go through before acting upon a problem, however at the point of action workers are faced with the exit/voice choice laid out by Hirschman (1970).

Overview

This section has looked at the voice and exit responses to problems at work. Focusing on collective voice in the form of union voice it outlines the scale of union decline, and membership levels for atypical workers. There is a discussion of agency workers and their interaction with trade unions concluding that while there are pragmatic and ideological reasons for recruiting these workers there are also significant challenges around the nature of their employment and uncertain employment status. This thesis addresses a group of workers for whom collective action through trade unions is not accessible because the trade union is unwilling to organise them at the workplace. It is necessary to look beyond the ability to act collectively through trade unions and to use mobilisation theory to discuss the opportunity of these workers to act at all. The opportunity to act on workplace injustice is not confined to collective action. The framework offered by mobilisation theory provides the basis for analysing the way in which workers address problems at work both individually and collectively, and the extent to which counter mobilisation prevents them from addressing dissatisfaction at work.

Chapter 3 – Researching temporary agency work

This chapter outlines and reflects upon the methods of obtaining the data to answer the research questions. This is a qualitative study with the primary data obtained largely from interviews undertaken within two local authorities ('Met' and 'City') supplemented by a self completion questionnaire. Additionally, interviews were conducted with representatives of trade unions, the employers' organisation and temporary work agencies. A range of documentary data were collected from all parties. This chapter details and justifies the choice of these methods and outlines the practical difficulties encountered in researching this area. Included are reflections on the practical shortcomings and key advantages of the chosen research design, tools and fieldwork and their impact on the thesis.

This thesis focuses on exploring the triangular relationship that agency workers have with their dual employers. It looks in depth at the management of these workers, their experience of work, and the effect of the triangular relationship on their working lives. It offers an insight into the complex relationship that agency workers have with their employers and the ways in which this relationship affects the way they define their interests, and how they respond to problems at work when they arise.

The literature outlined in the previous chapter provided the starting point for the research. Most previous UK research into agency workers has been conducted as case studies (Heery 2004, Tailby 2005, Druker and Stanworth 2004, Stanworth and Druker 2004, Hoque and Kirkpatrick 2006). Forde and Slater (2005) have made use of the Labour Force Survey to analyse the nature and extent of agency work in the UK and

Hoque and Kirkpatrick (2003) have used the Workplace Employment Relations Survey (WERS) to analyse marginalisation of professional agency staff. While surveys are able to describe institutions and structures it is more difficult to establish information about social processes because of the necessary crudeness of the survey method (Kelly 1998). In the last chapter I discussed the limitations in the existing survey data on agency workers and the concerns of a number of authors (Edwards 2006, Arrowsmith 2006 amongst others) that the Labour Force Survey data does not necessarily give a clear picture of the level of agency working in the UK. Self completion surveys present problems where worker status is confused and even workers themselves may struggle to appropriately self identify. This difficulty presents a major practical impediment to the use of the survey method in investigating agency work.

While there has been analysis of the position of agency workers in the labour market, and of the attitudes of trade unions towards agency workers, there has been little research into the views of agency workers themselves. We know little about how these workers experience work, and how they come to define their interests. We know little about the effect of the having an employment relationship with two separate organisations on the experience of work, and the experience of voice at work.

The literature on the position of agency workers in the labour market, the use of agency work as a bridge to permanent employment, and the access of agency workers to training all provide a helpful background to this thesis. They provide a starting point and informed the selection of case study sites. This thesis presents data from within the triangular relationship to illuminate the research questions posed. It offers a deeper insight into how agency workers and their employers experience the triangular

relationship and the challenges it poses to existing employment assumptions. It contributes to knowledge of agency workers because few studies have sought to engage with all three parties to the agency worker-user organisation-agency relationship. It engages with mobilisation theory to explore the ways in which these workers define their interests, and how they come to accept or reject collective resolutions when faced with problems that they attribute to the agency or user organisation.

The research questions are suited to in depth, qualitative study. The data required to address the questions are detailed and the questions are exploratory in nature; quantitative methods are therefore not appropriate (Yin 1994). This study develops detailed descriptions of the interrelationship between agency workers and their employers in the 'real world' and relates the findings to previous research into atypical workers, social movement theory and the voice/exit literature. The research seeks to describe and explain the complexity of the triangular relationship and its impact on agency workers. It is an investigation of a social phenomenon and is ideally suited to using qualitative methods within a case study research design.

“The case study can be defined as a research strategy or design that is used to study one or more selected social phenomena and to understand or explain the phenomena by placing them in the wider context” (Kitay and Callus 1998: 103)

The primary research rests on case study design for a number of reasons. Firstly, the context is key to understanding the research themes. Contextual factors that may affect the management of agency workers, their experience of work and their ability to access voice at work could explain some of the research findings. Secondly, the area is under-

researched and therefore an exploratory approach should be adopted, meaning that primarily qualitative methods should be used. A significant strength of a qualitative approach is that it allows previously undiscovered issues to come to light. Yin (1994: 1) argues that “in general, case studies are the preferred strategy when ‘how’ or ‘why’ questions are being posed...and when the focus is on a contemporary phenomenon with some real-life context.” As the central focus of this thesis is how agency workers experience work and how they voice problems at work, such questions are well suited to case study research. The goal was to gain an in-depth understanding of the issues posed in the research questions within these particular environments.

Research Sites

In identifying potential research sites I sought a context with a higher than average proportion of agency workers, a higher than average level of unionisation and agency workers located in teams primarily made up of permanent workers to reflect my particular research questions.

Prior to selecting a sector for study, I reviewed a variety of material including published academic work, Labour Force Survey statistics, Workplace Employment Relations Survey, government consultation papers and responses on agency work, and websites relating to agency work (referenced in the bibliography). This gave me an understanding of the variety of sectors and the range of occupations in which agency workers were deployed. Eighty percent of agency workers in the UK are located within the service and public sectors (ETUC 2005) so it was important to consider these areas in more detail. In some settings, agency workers are employed in large numbers,

notably call centres. While this setting would provide a large number of agency workers it would not allow for comparisons between different occupational groups, and the level of unionisation within this sector is comparatively low. In addition, the majority of agency workers in the UK work within teams dominated by permanently employed staff; this is important because the experience of work and propensity to unionise may be different when agency workers are working predominantly with other agency workers. For these reasons it was considered beneficial to research a sector where agency workers were employed across the occupational spectrum and where they are dispersed through the organisations in teams mostly comprised of directly employed staff.

Local government has a higher than average level of unionisation as detailed in the previous chapter (WERS 2004). There are also proportionally more agency workers employed within local authorities social care than in the economy as a whole; social care employs around 5.8% of its staff via agencies while the level of agency work in the economy as a whole is around 4% (Sisson and Marginson 2003: 167, Social Care report 2005). As with the labour market more broadly, agency workers in social care are generally located in teams dominated by fixed term and permanent local authority staff (figures in Chapter 4). These factors make local government social care an ideal setting for this research. Another key reason for choosing local government as the sector for this research is the occupational and functional diversity of the workforce encompassing a range of staff from professionally qualified occupational therapists and social workers through to residential and home care workers (LGPC 2002).

This means that within local government there is significant scope for investigating the

impact of job characteristics on the experience of agency work. Conley (2000) investigated temporary workers directly employed by local government organisations and identified that workers experience temporary work differently according to their demographics. This may also be true of agency workers as both demographic factors and the level of choice when undertaking agency work may influence its experience. Agency workers are used in professional, health and personal care and administrative roles allowing comparisons to be drawn between different types of worker within the same workforce.

Having identified social care within local government as an interesting and appropriate setting, I conducted exploratory interviews with the Improvement and Development Agency for local government, the Local Government Employers' Organisation and Unison, the largest union in the sector, at national level. I also reviewed websites relating to agency work in this sector and collected documentary material about agency work in local government (referenced in bibliography), including the agency arrangements used by local government employers, and statistics and reports on the use of agency labour in social care. The documentary data and exploratory interviews helped me to establish a broad understanding of the use of agency work in the sector and Unison's response to it. Analysis of the information also assisted me in identifying local authorities that would make appropriate case study sites.

This research could have been conducted either in a single local authority or in a small number of authorities. While a single authority may reduce problems of accessing the organisation, the numbers of agency workers employed may be too small to access sufficient agency workers. In addition there may be very different experiences within a

small unitary or metropolitan borough and a larger county council. For these reasons I initially decided to undertake research in three sites; one outer London metropolitan borough (Met), one unitary authority (City) and one county council. I anticipated that the different challenges faced by each authority and their recognised trade unions would illuminate the issues in the research. Within social care, London and inner-city authorities tend to have higher numbers of agency staff (LAWSG 42-43: 2005), though their recruitment and retention problems tend to differ. County councils tend to have fewer recruitment and retention problems in social care (exploratory interviews with two county councils, LAWSG 2005) and fewer agency workers; the workers that they do have tend to be more dispersed throughout the organisation which is itself more geographically dispersed. I hoped that the differences between a local authority in London, a city authority outside of London and a county council would offer diverse settings for agency workers and may offer insight into their varied experiences.

Exploratory gatekeeper interviews were conducted with five local authorities and local Unison, Unite and GMB representatives. I gained research access to three of these local authorities. I subsequently decided not to proceed with the county council case study as the authority was in the midst of a serious financial crisis and had made the decision not to employ any agency staff in social care and furthermore to finish the contracts of those agency staff currently in employment. Even before the financial problems, interviews with managers suggested that there was a much lower proportion of agency workers to permanent workers within county than in the other two authorities. Relatively small numbers and access problems led me to drop this potential research site but the initial interviews provided some useful general information, as did exploratory interviews with managers in two other local authorities as potential research sites.

The selection of case study sites was influenced in part by the practicalities of obtaining access to local authorities with sufficient agency workers for the study to be viable. Two county councils considered for research access had a very small proportion of agency workers. This supports the general argument that agency workers in social care tend to be predominantly based in urban local authorities. Both county councils reported very few recruitment and retention difficulties, and this supports the argument that most agency workers in local authority social care are employed as a result of recruitment and retention problems. The research sites finally selected are, broadly speaking, indicative of the sites within which most agency workers in public sector social care work. They are both urban, both experience significant recruitment and retention problems and both use agency workers across the occupational spectrum. Although generalisation can be problematic from case study research the findings from this study are likely to reflect the experience of agency work across the local government social care sector.

A fuller overview of the local government sector and details of the research sites called 'Met' and 'City' follow in the next chapter.

Research Methods

A mixed methods approach was taken for this investigation. The main method of data collection was by semi-structured interviews with key informants. In addition, documentary data were collected and self completion questionnaires were administered to agency and permanent workers within both local authorities. Within Met these were administered by post or e-mail for self completion but within City they were given out

face-to-face in team meetings and at the workplace.

Documentation

Documentation was used throughout the research process. Initially documents were collected to inform the selection of the case study sites as discussed above, but later in the process a variety of documents were collected to supplement interview and observation data. A list of the documents reviewed is provided as secondary sources. Once the case study sites were selected documents were collected from published sources like the National Audit Office and also internal organisational material. I obtained confidential unpublished information from both sites on the use of agency workers within social care including staffing reports, workforce plans, research on encouraging agency workers to take permanent positions, HR and procurement advice to managers, demographic data, minutes of council meetings, proposals on future procurement of agency workers, tender documents, agency contracts and agency spend data. Some documents were provided purely for background purposes with the agreement that I would not make them publicly available, other data was simply unpublished. Many of these documents were collected during or following interviews with senior managers within the organisations. Others, particularly from City, were collected shortly after the fieldwork, when consultants were working to introduce new agency arrangements. I was not allowed access to some documents which may have been useful such as the tender documentation for the master/neutral vendor arrangements at Met nor the Adecco tool kit for managing agency workers.

Interviews

Interviews are a valuable means of data collection as they provide a “flexible and adaptable way of finding things out” (Robson 2002: 272). They have a number of advantages over other research methods including the opportunity to clarify possible misunderstandings, the ability to use probing questions, and the ability to build rapport and trust between the interviewer and interviewee (Ibid). The semi-structured interview allows some questions to be predetermined but also allows for answers to be probed and for the interviewer to use her discretion in omitting or adding questions and following up interesting responses (Robson 2002). This is a significant advantage over more structured techniques like surveys because it allows the interviewer to explore avenues that arise out of the interviewee’s answers and to consider areas that may not otherwise have been discussed.

Interviews were the main method of primary data collection. A total of sixty-nine interviews were carried out, comprising of ten interviews with union representatives, two interviews with representatives of the British Association of Social Work (BASW), eighteen line managers, two Human Resource officers and two procurement consultants, six agency managers, and twenty-nine agency workers. The union representatives were a mix of national union officials, regional officials and local union conveners for Unison, Unite and GMB. Because the majority of agency workers that I interviewed were social workers I felt that it was important to meet with their professional association and so interviewed a professional officer and a member of the BASW advice and representation team. The British Association/College of Occupational Therapists is the equivalent body for occupational therapists, however as few occupational therapists took part in this study I felt that it was appropriate to focus on BASW.

BASW is different to some other professional associations that have workplace representative structures and engage in collective bargaining in that it has sought to differentiate itself from the trade union movement. Its primary focus is to “campaign for, and defend, the values and ethics of social work” (BASW 26/04/2003, 72), and unlike trade unions it does not engage in collective bargaining, nor does it have a structure for workplace representation, though individual members are offered advice and representation from a centralised function.

I interviewed managers at all levels of the case study organisations from the Service Director of Adult and Community Services through to first tier line managers. Each of these interviews consisted of both a substantive data collection exercise and a further research access negotiation. In both organisations it was necessary to negotiate access at various organisational levels. Within Met the first interview was conducted with the Director of Adult Social Care as both a gatekeeper discussion and a substantive interview. He identified managers across his service at first, second and third tier line management for me to meet with who in turn identified colleagues that managed agency workers. Within City, I was given access to the organisational structure and phone details for staff; I selected and contacted managers and some of the second tier managers indicated teams with high proportions of agency workers as appropriate to contact. Interviews with managers were used both for data collection and as gatekeeper meetings to access agency workers within their teams. The managers that I initially selected and interviewed then gave me details of colleagues who managed agency workers and in one case a manager who was an agency worker. I approached a total of twenty seven managers, three refused my request for an interview because they were too busy or did not manage agency workers, and another six did not respond to e-mail

and telephone requests. Of the eighteen managers interviewed five either had no agency workers for me to interview or said that their agency workers would not be available to meet with me, generally because they had just started a placement or were about to end a placement.

The agency arrangements for both local authorities were complex. Both had internal agencies, sometimes referred to as banks, with administrative and care staff directly employed by the local authority on casual contracts being deployed on placements from one day to six months. In addition both local authorities used commercial external agencies to supply agency workers across the occupational spectrum from administrative and care staff to occupational therapists and social workers. During the research I interviewed three internal agency managers and three external agency managers. The former worked managing care and administrative internal agency staff and the latter administrative workers and social workers. It was very difficult to arrange to speak to external agency managers and despite many attempts to do so it was not possible except where it was arranged by the local authority or, in one case, an agency social worker.

The twenty nine agency workers that I interviewed were a mix of fourteen social workers, one senior social work practitioner, two social work managers, two occupational therapists, six care workers and four administrative workers. I sought interviews with thirty three agency workers and received no response from four; these four were e-mailed as there were no telephone contact details available and it is possible that the e-mail details for them were incorrect. Once contact was made with agency workers, arranging to interview them was generally straightforward; however getting

contact details for these workers was far from straightforward, particularly at City.

Figure 3.1 Interview subject breakdown

Interview Subjects	Number
Agency workers	
Agency Social Workers	14
Agency Senior Practitioners	1
Agency Social Work Managers	2
Occupational Therapists	2
Internal agency care workers	3
External agency care workers	3
Internal Agency Administrative workers	4
Management	
Line Managers	18
Human Resource Managers	2
Procurement Consultants	2
Union	
Unison	6
Unite	2
GMB	2
BASW	2

Normally if a manager had been interviewed they would ask the agency workers that they managed whether they would be willing to speak to me. It was most difficult to arrange to speak to care workers, and two of the interviews with care workers lasted only twenty minutes because the managers were unwilling to allow them to speak to me for any longer in paid work time. It was not possible to speak to either of these workers outside of work time. On average interviews lasted a little over an hour, the longest was two hours and twenty minutes with an external agency manager and the shortest was, as noted, twenty minutes with a care worker.

At the beginning of each interview, I outlined my area of research, gave confidentiality

assurances, asked whether they would allow me to record the discussion and confirmed that interview subjects were happy to take part in the research. Three of the interviewees did not want their interviews to be taped and in those cases detailed notes were taken. Difficulties in meeting face-to-face resulted in three of the interviews being conducted by telephone; these interviews were recorded and transcribed. Ideally, these interviews would have been conducted face-to-face as observing 'body language' is an integral part of interviewing because it gives the interviewer cues and allows opportunity to prompt where appropriate. As it was impossible to conduct these interviews face-to-face telephone interviews were preferable to losing the opportunity to speak to these interview subjects. The interviews themselves were semi-structured using interview schedules that provided a check-list of areas to be covered (copy interview schedules found in Appendix A-C).

The main areas of questioning related to the research questions and themes identified in chapter 1. The questions for agency workers began with a discussion of how and why they had taken agency work. These questions were informed by the literature on voluntary/involuntary agency work and the bridges and traps view of agency work. I moved on to questions about the differences between agency work and permanent work in terms of pay, status, rights and responsibilities, to look at different agency workers' perceptions of how being an agency worker affected their experience of work. A number of questions were asked about whether workers had considered raising any problems in their current or previous employment or whether they had decided to move on when they had experienced problems at work. The purpose of these questions was to discuss the sort of problems that agency workers had at work, and the kinds of responses that they had to them; these questions were informed by mobilisation theory

and the voice/exit literature. Agency workers were asked about their interaction with trade unions to establish the level of trade union engagement and the workers' perceptions of trade unions in the workplace. It was important to determine workers' views on the visibility of the unions, the relevance of unions to agency workers, and the main incentives and disincentives to membership. These questions were central to determining the desire of agency workers for representative voice through trade unions and their perceptions of the availability of trade unions in the workplace.

Managers were asked about the make-up of their workforce, and the changes to this over time, to get an idea of the level of experience that managers had in dealing with agency workers within their staff group. They were also asked about the local authorities' policies on recruiting agency workers and the role of unions. This was to determine whether managers had a shared understanding of the policies of the local authorities and implemented them in similar ways. Questions about the length of engagement, conditions of work, and general management of agency workers also contribute to understanding how these workers are managed differently to permanent staff. These questions are informed by the fragmented work literature which identifies that workers with triangular relationships often have complex management arrangements, and they seek to explore the different ways in which managers deal with the complications of this triangular relationship. The literature relating to the reasons that organisations engage atypical workers informed questions for managers about why they used agency workers and the associated advantages and disadvantages of doing so.

The interviews with trade union representatives explored the unions interaction with agency workers at political, national and workplace level. Initially questions about the

number of agency workers within the branch and local authority were to establish how informed union representatives were about union policy and local practice when dealing with agency workers. Later questions were to establish the level of interaction between agency workers and unions, and to understand the strategy that was taken at branch and national level.

The interviews were transcribed and loaded into Nvivo, they were then coded.

Figure 3.2 Coding

Agency workers	Managers	Unions/BASW
Experience of agency work <ul style="list-style-type: none"> ● recruitment ● training ● job security ● advantages ● disadvantages ● management 	Managing agency workers <ul style="list-style-type: none"> ● recruitment ● discipline ● grievances ● training ● support 	Union <ul style="list-style-type: none"> ● National policy ● Branch policy ● interaction ● hostility ● inclusion ● vulnerability
Dealing with problems <ul style="list-style-type: none"> ● dissatisfaction ● grievance ● exit ● voice ● support 		
Trade Union <ul style="list-style-type: none"> ● contact ● opinion ● rejection ● support 		

The data within each of these headings was then reviewed to draw patterns and themes. Having reviewed the data on the reasons for taking agency work it was possible to identify links between workers with similar reasons for selecting agency work, these links carried through in many cases to perceptions of job security and broad experience of agency work. Analysing the data in this way allowed me to identify a typology of agency workers that reflected differences in reasons for taking agency work which

offered some insight into the experience of different types of workers. Five of the six types of agency worker were drawn from the data in this way and then taken back to some agency workers to validate.

Four agency workers and two managers agreed to speak to me again should I have further questions. I was able to take concepts like the agency worker typology I developed from my research back to such workers to check that they resonated with them. This was a useful device and resulted in the addition of the category of 'donkeys and misfits', a group frequently described by managers and workers. One manager suggested that most agency social workers were “the donkeys and misfits that can't keep a proper job”, this description offered the label for the group. Agency workers talked about their belief that they had to overcome the general view of permanent staff that they fit in this category, and managers reported having managed workers of this type. While this category did not reflect the direct experience of the workers within this study it was noted by workers and managers alike and therefore included to reflect their views. The positive response of these workers and their ability to identify themselves and their colleagues in my descriptions, and to suggest alterations, was a valuable part of the research process. The workers themselves appeared to appreciate the opportunity to ensure that my research reflected their actual experience of work. These discussions did not take the form of formal interviews, rather they were telephone discussions and e-mail exchanges as well as one informal meeting.

Self Completion Questionnaire

The questionnaire was designed to allow me to form a general picture of how social

care workers feel about their work, whether they join unions, why they join, and how they are represented by their trade union. It was designed to compare the views of agency workers with their permanently employed colleagues. The rationale for a survey was to directly compare the attitudes of agency workers and their permanent colleagues on issues such as their perceptions of job security, job satisfaction, pay, flexibility, control over work, and attitudes to trade unions. It also asked workers for the reasons for joining or not joining trade unions. The part of the questionnaire which focused on the attitudes of workers to trade unions was informed by questions in the surveys used by Kerr (1992) and Waddington and Whitston (1997) because they covered the issues researched in this part of the project.

The questionnaires were intended to compare agency workers with their permanent colleagues across a range of attitudes to their employer and to trade unions. When the research was designed, it was intended that the self completion questionnaires would identify potential interview subjects. It was also intended that the broad themes from the questionnaire would inform the interviews by identifying areas of similarity and difference between the perceptions of agency workers and their permanent counterparts. This was not possible in practice. Met had detailed information on the location of its agency workers and assured me that all workers had e-mail accounts. The questionnaire was sent out by e-mail but there were technical problems and the few responses that were received had to be ignored. Further work ensured that it was possible to send the questionnaires out again by email.

At City, access for sending out the questionnaire was more complicated. Whilst at Met most agency and permanent staff (excluding care workers) were comfortable using e-

mail and word processing, the same was not true at City. It was clear that it would be necessary to send the questionnaires out in paper form. Additionally, whilst Met had detailed information kept centrally about its agency workers, City had no central list of agency staff. In some areas, Heads of Service did not have a list of the agency staff working in their areas. At the time of the research, there was an attempt to get centralised information as a stepping stone to rationalising procurement of these staff so some limited information was available; however it tended to be out of date. The list that was produced was based on financial information rather than line manager identification. There was great variation regarding what individual managers were willing to tell me about their agency staff, from those willing to give me names and work addresses, to those willing to take questionnaires for their staff but not to divulge any personal information.

Fig 3.3 Questionnaire response rates

	Met			City		
	Sent	Returned	Response rate (%)	Sent	Returned	Response rate (%)
Permanent employees	160	54	36%	100	32	32%
External agency workers	30	6	20%	31	10	32%
Internal agency workers	0	0	N/A	50	34	66%

The response rate to the survey was very low. Few agency workers participated in the survey. These facts mean that this research does not rely heavily on the results of the survey. The majority of the thesis relies on data gathered at interview.

The option of sending questionnaires to agency workers via their agencies was investigated; however the agencies themselves were very reluctant to participate in any way in the research. The few interviews that I conducted with agencies were at the end of the research and access to them was facilitated by the local authorities themselves.

Within both research sites it was very difficult to arrange to administer the questionnaire. This led to most of the questionnaire data being collected after the interviews had been carried out rather than providing a basis for interviewing. The problems encountered in administering even a small questionnaire within this study are indicative of the types of difficulties that would have been faced if trying to conduct a survey of these workers as part of a quantitative research design. Employers may not have the information about who these workers are and where they are located within the organisation, and agencies may be reluctant to support a survey of their staff. While Workplace Employment Relations Survey (2004) and Labour Force Survey glean some valuable information in the area, such large scale surveys are expensive and, as discussed in the last chapter, may not identify agency workers accurately.

Observation

During the research the opportunity arose to directly observe interactions between agency workers, their permanent colleagues and managers, and between agencies and the user organisation. The extent to which observation came to be used was not part of the original design but emerged as a research method during the course of the study and had particular benefits in terms of giving me greater understanding of context, the

opportunity to build relationships within the organisations, and the ability to gather additional data.

I was keen to pursue close links with both local authorities to follow up any and all leads that presented themselves. As such, over the course of the research I felt that it was important to maintain regular contact with gatekeepers and to seek involvement with developments relating to the use of agency workers within the local authorities. I attended four presentations by agencies to local authority employers which offered me the opportunity to make personal contact with the agencies and to gather information about the services that they were offering to the local authorities and their means of marketing. One was a master vendor (MV) presentation to managers on how the new arrangements would work and how they would be affected by their introduction. The others were presentations by three administrative agencies to a group of representatives from local authorities about the contracts they had negotiated and the benefits to authorities of accepting them as sole or preferred suppliers. Within City, I was able to attend and observe meetings with HR, managers and consultants discussing the problems with agency workers and the current arrangements in social care and possible future options. In arranging interviews and distributing questionnaires I was able to observe staff in team meetings and at work and see team interactions. This non-participant observation was unstructured and offered me unique insights that both broadened my understanding of the background to the case study sites and gave me an opportunity to focus on some aspects of the interaction between agency workers and their colleagues to discuss at interview (Punch 2003).

Strengths and limitations of the research

During fieldwork, sufficient data were collected to address the research questions posed. The in-depth interviews in particular offered very interesting primary data on the perspectives of a variety of agency workers. While a wide range of data sources were used and significant data were collected there are areas in which additional interviews, questionnaires and documentary data would have improved the research.

Access to organisations in which to conduct this research was problematic. In Met, Children's and Young People's Services refused to participate, meaning that the research was solely based in the Adult Services Division. In City, the picture was more complex and the organisation delegated decision making over access to lower and lower organisational units. This resulted in a patchwork of different areas of social care being involved with others refusing or not responding. The result of having to negotiate access with many different managers within City was that negotiations were time consuming and the fieldwork took much longer than was initially intended, although this has led to its own insights.

In addition to accessing agency workers via local authorities I attempted to access them through their agencies. Within Met, the master vendor was very resistant to the idea of allowing me access to the list of agencies from which it drew social care staff making it impossible to make contact with them. Within City I was able to access a list of agencies that had been used but it was not possible to identify which agencies were in use at the time of the research. Nonetheless I was able to contact three of the listed agencies all of whom were unwilling to speak to me. I attempted to contact two

additional agencies and was unable to speak to the appropriate person despite trying to make contact on several occasions. I was able to speak to two internal and three external agencies during the research when agency workers or senior managers introduced me and assisted me with access. The internal agencies were helpful in terms of distributing questionnaires and arranging meetings with their staff; however the external agencies felt that it was more appropriate for interviews and questionnaire access to be agreed with the user organisation.

The access problems I experienced in researching agency workers are indicative of the types of issues that unions may have in identifying and contacting these workers. Within City Unison periodically pays for a list of all new starters, which is all new pay-rolled staff. Clearly agency staff would not be on this list, however there is no alternative agency worker list available should they wish to unionise these workers. The poverty of information available would make organising difficult, particularly with a group like agency workers in social care where they are generally found in teams made up of permanent staff. Agency workers within both local authorities were virtually invisible at organisational level. Few senior managers were aware of agency workers within their structure. The difficulties that I encountered in accessing agency workers and their invisibility within the organisations are indicative of the kinds of barriers that there are to such workers accessing voice within the organisations. Thus the research difficulties in themselves have become part of the findings underscoring the marginalisation that agency workers experience.

This research would have benefited from additional interviews with agency workers, in particular short-term care workers and administrative workers, as the majority of agency

worker interview subjects were social workers. One of the key aims of the project was to explore the terrain between the absolute models found in the literature of agency workers. Whilst agency social workers were themselves diverse in a variety of ways explored in the following chapters it would have been helpful to have interview subjects that were more representative of the whole social care workforce. Care and administrative workers enjoyed less autonomy than their social work counterparts who were generally able to decide for themselves how long they wanted to speak to me. Given that the social care sector was chosen because of the diversity of staff present it is unfortunate that despite my continued and varied approaches it was not possible to identify and interview a more occupationally diverse group of agency workers. Nonetheless it was possible to interview a variety of agency workers and to gather data from a group whose voice is rarely heard. Whilst difficulties were encountered in accessing these workers it was possible to gather sufficient detailed data to explore their experience of work and voice at work.

Despite the limitations of this study the methods used are appropriate means of gathering data to answer the research questions posed. They have produced data sufficient to address the research questions. The research is situated in sites within the local government social care sector where agency workers are most commonly found and the findings can be generalised across the sector. The public sector is a major user of agency workers, and the local government social care sector has a particularly high proportion of agency workers. Other forms of the triangular relationship are also found in this sector such as outsourced services and contractors. If innovation in dealing with triangular employment relationships is to be found one would expect it to be in a sector such as this one where triangular relationships are found in a number of forms (agency

workers, outsourced workers, teachers).

The agency workers in this study are not representative of agency workers within the UK labour market. Most are agency social workers who are highly qualified, professional workers. They are in a relatively privileged labour market position because of the current shortage of qualified workers in social work. The administrative and care workers interviewed were more broadly representative of agency workers in terms of pay, qualification, labour market position and job type. Whilst acknowledging the privileged position of most of the research participants it is possible to draw some conclusions about agency work in the UK from their experiences.

In engaging with the literature it is also possible to generalise on a theoretical basis and to draw links with other groups of workers engaged in triangular employment relationships. In order to build good theory it is necessary to compare the results of the study with existing literature (Eisenhardt 1989). Case study research can extend existing theory by applying it to new situations or groups and investigating whether existing explanations provide an adequately account for research findings. Where findings contradict established literature the research can be probed to explore the reasons for the conflict and this process offers the opportunity to establish emergent theory. An example of this from this study is the discussion around the use of 'exit' for agency workers. Stanworth and Druker (2004) argue that for the workers they studied easy access to exit was obscured and possibly even illusory, a large number of workers in my study reported the opposite, that exit was an easy and readily available option. This forced consideration of the kinds of workers in both studies that noted the different access to exit as a response to workplace problems. It is possible to generalise on a

theoretical level about the opportunity of agency workers to act in response to problems at work. This is one example of an area in which my thesis engages with existing literature to make a theoretical contribution that is relevant outside the arena of local authority social care.

Chapter 4 – Temporary agency workers in local government social care

This chapter presents background information on local government. It begins by outlining the pressures within the sector that have precipitated a move towards the use of agency workers in social care, and reviews the numbers of agency workers within social care in the UK, their roles and the reasons given by local authorities for their use. How local authorities use temporary work agencies to provide workers is described, outlining the different available options, and the advantages to them of using agency workers, and the different ways in which they are recruited and deployed, are discussed. Finally it provides a brief outline of unions and professional associations in local government.

The local government sector

This research is based in local government which forms part of the wider public sector. Unlike many of our European neighbours, public sector employees in the UK do not enjoy special privileges, for example job security conferred by statute, nor are there specific legal restrictions (apart for police, armed forces and prison officers) on the right to join a trade union or take part in strikes. “Although some parts of public service employment had been viewed, in practice, as a lifetime career with predictable patterns of promotion and high levels of job security, such expectations were not established by statute, nor explicitly recognised in common law” (Bach and Winchester 2003: 286).

Local government is a very diverse branch of the public sector with responsibility for a

variety of front line services including housing, planning, transportation, education and social care to name a few. The sector comprises 468 local authorities in England, Scotland and Northern Ireland, employing over 2.5 million workers, a figure that has remained stable over the last twenty years (LGPC 2003). Local authorities are not a homogeneous group; there are significant differences between various types of authority most notably between single tier authorities offering a full range of services and two tier authorities where responsibilities are divided between metropolitan, borough and county councils. There is great diversity in the geographical size of local authorities, the number and types of staff employed, the number and type of services offered, the social and economic status of the area and the political considerations linked to elected representatives. Nonetheless there are a number of general features. In its analysis of the sector the LGPC (2003) noted the high proportions of women workers, comprising 75% of the workforce, and the high level of part time working arrangements, stating that over 40% of local government employees are women part time workers.

Local government also features a higher than average proportion of older workers (LGPC 2003). It has proportionately slightly fewer Asian workers and more Black workers than the rest of the economy. Much of the sector is highly labour intensive and as a result employment related costs make up a substantial proportion of variable costs.

Almost 50% of funding for local government comes from central government and a further 25% comes from non-domestic rates, such as business rates, which are regulated by central government (LGPC 2003). The remaining 25% of funding comes from council tax, the level of which is decided locally, though national government does have the power to limit rises. The implications of the reliance on central government funding

will be discussed later in the chapter.

This research focuses on staff within Social Care departments. Within local authorities, Social Service departments or directorates (SSDs) were established in 1971 to assess social care needs and provide or commission services for different client groups within a given geographical area. In September 2006, there were 149 SSDs in England employing 217, 020 staff in adults social care and 55,060 in children's social care (LAWIG 2007a&b). Recent changes in provision of services for children have meant that social care provision for children has been combined with education services to make up newly created Children's Services departments within local authorities.

While the local government workforce as a whole is predominantly female, social care is even more so. Over 80% of the social care workforce are women and just over 50% work part time (LAWSG 2006: 5). The proportion of the social care workforce over fifty years old varied from 25-50% depending on occupation. Workers in these departments were occupationally diverse, ranging from occupational therapists and social workers through to residential care workers, home care workers, and managers. Client groups range from children to elderly people and include people with physical, and learning difficulties and mental health problems.

Recruitment and retention problems in social care existed across the occupational spectrum. Having increased for three consecutive years, the overall vacancy rate in 2005 fell to 10.5% across social care jobs. For the fourth consecutive year, staff turnover fell and now stands at 11.6% (LAWSG 2006). Local authorities identified that occupational therapists and social workers, particularly in Children's Services, were the

most difficult to recruit.

Staffing in local government

The public sector is an important area for the study of agency workers. In the main this is because the public sector uses proportionately more agency workers than the private sector. The pressures on public services and local government in particular provide some explanation for the growth in agency work and it is helpful to note the particular circumstances that have been the backdrop to the growth in agency work in the public sector.

Local government, as with other state employers, was seen as a model employer in its espousal of policies such as Whitleyism with its extensive national and local consultation and negotiation machinery and its recognition of trade unions. It has also been associated with the provision of secure employment and desirable employment benefits, if not high levels of pay (Farnham 1993).

It would, however, appear that this is no longer the case; a number of authors (Morgan et al. 2000, Webb 2001, Whitfield 2001, Conley 2002) have commented on the perceptions and realities of insecurity that exist within the local government workforce as well as the growing use of temporary contracts, with their intrinsic insecurity. Beyond this there is increasing use of triangular employment relationships both in terms of high levels of agency workers and high levels of contracting out. Incomes Data Service (2003) has reported on the increasing use of agency labour in local government.

Two authorities have reported that 10% of their workforce is made up by this type of worker.

It is important to briefly mention the recent history of industrial relations in this sector. I have already outlined the wide remit of local government and the significant numbers of staff involved in delivering those services. Local government is a very large employer within the public sector and has been one of the primary political and industrial battlegrounds of the 1980 and 1990s. There were significant legislative and finance administration changes during the 1980's and early 1990's put in place by central government (Cochrane 1993, Colling and Ferner 1995, Farnham and Horton 1996). New Public Management (NPM) came to describe a group of ideas implemented within the UK public sector and abroad drawing some aspects of private sector management into the public sector; their introduction marked the increasing marketisation of public services. Hood (1991) offers a discussion of the main threads of NPM but it is important to note that the concepts were introduced by the Conservative governments of the 1980s with a focus on extracting economy, efficiency and effectiveness from the public sector. Entwistle et al (2007) identify how the Labour governments from 1997-2007 have changed the face of new public management but emphasise the ongoing role of marketisation, targets and regulation.

Some of the changes introduced under the heading of NPM were policies like Compulsory Competitive Tendering (CCT), Best Value and most recently the efficiency agenda requiring year on year savings that is the outcome of the Gershon report (Gershon 2004). CCT was introduced in 1980 and extended through the 1980s and 1990s, it required local authorities to procure services by competitive tender. Internal

departments were able to bid against external competitors, however to be awarded contracts they must have submitted the lowest cost bid and meet return on capital specifications (Entwistle and Laffin 2005). Its introduction saw large-scale outsourcing of services and meant that delivery of many local government services was taken into the private sector. Best Value replaced CCT in 1999 mandating that local authorities continuously improve the way they exercise their functions. Local authorities were required to produce a Best Value performance plan, record progress against various performance indicators and comprehensively review services and functions over a 5 year period (Entwistle and Laffin 2005). In 2004 the efficiency agenda was introduced with the intention of focusing scrutiny at the political and managerial level on improving productivity and optimising resource use (Quirk 2005). It required year on year savings and the redirection of resource from back office functions to the front line. These changes have combined to alter the way in which public sector managers need to operate and have changed how employees are managed within this area of the public sector. The pressures on finance have encouraged the increased use of non-standard employment contracts including higher use of temporary, casual and agency workers within this traditionally secure workforce.

There has been a significant, centrally applied pressure for restructuring, largely to outsource services rather than to provide them directly. This policy has at its centre cost reduction. Savings have been made largely by reducing terms, conditions and job security of public employees (Colling 1993). Ackers (1996: 15) argues that “the 'efficiency' gains of privatisation and commercialisation appear to be predicated on the weakening of union organising, clearing the path for the adoption of non union, private sector employment norms”. Within social care departments have increasingly moved

from direct provision to administrating a contracted out service leading to triangular relationships between the local authority, the service provider and the individual workers carrying out the work that must then be assessed by the local authority (Fairbrother 1996). The workers actually providing services are engaged in triangular relationships. Whilst most of these workers will be the direct employees of the contractor, they will in many cases be subject to the standards and control of the local authority, and ultimately their continued employment will be based on the continuing willingness of the local authority to purchase their services. The use of such contractors means that local authorities evade responsibility for the workers that provide their services. While retaining significant control over the hours and mode of work, by outsourcing services local authorities are able to avoid the consequences of being the legal employer.

Where it has not been possible to outsource services due to statutory duties or political sensitivity the terms and conditions of directly employed public sector workers have been challenged by the use of casualised forms of employment like temporary contracts, flexible contracts and agency workers (Conley 2002).

The use of agency and temporary employees is in line with the above pressures but this has implications for local authorities in terms of recruitment and retention. Local government has struggled with recruiting and retaining some categories of staff for a number of years. In some areas agency workers are engaged not out of any desire for flexibility in staffing but because it is not possible to recruit directly employed staff (LAWSG 2006). Attracting staff is a pressing concern for local authorities, there are also concerns about the ageing workforce across certain occupational groups; with 25%

of local authority workers due to retire over the next decade and just 8% being under twenty five (Llewellyn 2005: 8). This must, of course, be tempered by the recent age discrimination legislation and the possibility that some of these workers may work beyond retirement age. In addition to having an ageing workforce the above-mentioned pressures have lead to difficulties in retaining staff within the public services. This has meant acute staff shortages in some areas. The Audit Commission (2002) cite the following key factors to explain why many staff are now choosing to leave public employment: “the sense of being overwhelmed by bureaucracy, paper work and targets”, “insufficient resources”, “unmanageable workloads” and a growing sense of ‘reform fatigue’. Conley (2002) notes that in teaching and social care the shortages were particularly acute with teaching facing a 15.8% annual resignation rate and vacancy rates in some authorities of up to 46% among social care staff, and suggests that employees may be ‘voting with their feet’.

Use of agency workers in local government

It is important to identify and understand the advantages for employers of using agency labour. The chapter two dealt with old and new rationales for the use of atypical workers generally and specifically agency workers.

The London Centre of Excellence¹ (LCE) produced a comprehensive report based on the use of agency workers in local authorities across London detailing the reasons for the use of agency workers in local government, the risks of unmanaged agency

1 An organisation comprising membership from all London boroughs with the role of information sharing, encouraging collaborative working across London and keeping stakeholders up to date with the procurement, improvement and efficiency agenda's.

procurement and the options for managing agency procurement (LCE 2005). They argue that agency workers are used in local government for a variety of reasons including flexibility, covering absence, covering vacancies while recruiting, for seasonal work, where immediacy is important in achieving a project or business need, where they are a cheaper option and where it is not possible to recruit permanently (LCE 2005). Whilst they note the use of agency workers because of recruitment and retention problems, they also argue that the use of agency workers can be a positive choice in many areas. The LCE report (2005) notes both new and traditional reasons for using agency workers but gives no details of which reasons are most commonly offered by local authorities.

Within social care the local authority workforce survey group (LASWG) reports on the reasons for using agency workers. As noted earlier recruitment and retention of permanent staff in social care have lead to particularly high levels of agency workers in this setting, particularly within social work and occupational therapy roles. Whilst recruitment and retention problems do push SSDs to use agency workers, there are also other drivers. Figure 4.1 reports on the reasons SSDs have given for using long-term agency (over one month) staff:

Fig 4.1 Reasons for using long-term (over 1 month) agency staff

Percentages of local authorities with long-term agency workers	Reasons for using long-term (over 1 month) agency staff					
	Cover for vacancies	Cover for absence	Replace permanent employees	short-term assignments	Other reason	
Eastern	71	100	14	43	14	
East Midlands	100	100	0	60	0	
London	87	80	13	53	0	
North East	75	75	0	0	0	
North West	100	86	29	43	14	
South East	100	83	33	38	0	
South West	88	88	13	38	0	
West Midlands	100	71	29	14	14	
Yorkshire and Humberside	89	78	22	22	0	
England	2001	98	82	16	52	10
	2002	95	75	17	49	8
	2003	92	64	13	52	7
	2004	96	82	18	56	6
	2005	90	84	18	40	6

Source: (LAWSG, 42: 2006)

Fig 4.2 Reasons for using short-term (under 1 month) agency staff

Percentages of local authorities with short-term agency workers	Reasons for using short-term (under 1 month) agency staff				
	Cover for vacancies	Cover for absence	Replace permanent employees	short-term assignments	Other reason
Eastern	71	86	14	71	14
East Midlands	100	100	0	20	0
London	100	94	12	47	12
North East	33	100	33	33	0
North West	100	88	38	75	0
South East	83	100	33	33	0
South West	100	100	14	71	14
West Midlands	88	88	13	63	0
Yorkshire and Humberside	90	60	20	70	0
England	90	89	18	56	6

Source: (LAWSG, 41: 2006)

Local authorities report similar reasons for the use of long and short-term agency workers. As shown in Figs 4.1 and 4.2 2005, 90% of local authorities in England reported using short and long-term agency workers to cover vacant posts, slightly fewer

reported using agency workers for covering for absent staff, 84% used long-term agency workers and 89% use short-term agency workers for this reason. The same source notes that in the five years from 2001-2005 at least 90% of local authorities reported using long-term agency workers to cover vacancies in social care, though under 20% reported using agency workers to replace permanent employees. These figures suggest that the preference of employers in this sector is for permanent employees, with agency workers being used to 'plug holes' if it is not possible to recruit permanent employees or while such workers are recruited. Within this staff group agency workers are still employed for primarily traditional reasons. Whilst agency workers are employed in some local authorities to do jobs previously done by permanent employees far more local authorities use agency workers to cover absence, vacancies or for short-term projects.

Fig 4.3 Agency staffing figures

	Area	Total direct Staffing Level (FTE)	Agency Staff (FTE)	Agency staff as % total staffing	% of staffing spent on agency staff
Short-term agency	London	25,680	1,836	7.1	1.7
	Rest of England	190,700	3,766	2.0	1.3
	England - total	216,380	5,602	2.6	1.4
Long-term agency	London	25,680	3,465	13.5	13.7
	Rest of England	190,700	3,460	1.8	2.2
	England - total	216,380	6,925	3.2	4.2
Total agency	London	25,680	5,301	20.6	15.4
	Rest of England	190,700	7,226	3.8	3.5
	England - total	216,380	12,527	5.8	5.6

Source: (LAWSG 42-43: 2006)

Figure 4.3 shows the extremely high level of use of agency workers particularly within London authorities. There is no breakdown within the 'Rest of England' for county versus city or metropolitan authorities to suggest which have the greater percentage of

agency workers. It is also notable that whilst for long-term agency staff the percentage of payroll costs exceeds the percentage of headcount the same is not true for short-term agency staff. The figure below goes some way to explaining the differences.

Fig 4.4 Location of agency staff in social care

Percentage of staff	Long-term (2004)	Long-term (2005)	short-term
Field social workers (children)	31	30	3
Field social workers (other)	19	20	1
Occupational therapists	4	5	0
Home care organisers	1	0	0
Home care staff	9	6	26
Interim managers	1	1	0
Residential homes (children)			
-Managers and supervisors	3	0	1
-Care staff	6	5	8
Residential homes (elderly people)			
-Managers and supervisors	0	0	1
-Care staff	16	4	49
Residential homes (other adults)			
-Managers and supervisors	0	0	1
-Care staff	10	3	5
Other			
Administrative staff	*	14	3
Other types of staff not included above	*	12	3

Source: (LAWSG 44: 2006)

It appears from Figure 4.4 that professional, administrative and non-professional workers are used in different ways by local government social care employers. For professional and administrative workers, agency work appears to be typically long-term. Care workers, whether they are engaged as home care or within residential homes, are used for short periods.

Forde and Slater (2005) and Kirkpatrick and Hoque (2003) amongst others comment on

the poorer pay and conditions of many agency workers. However, within the social care workforce many professional agency workers enjoy substantially better pay than their permanent counterparts. There is a true division within the social care workforce both on the grounds of pay levels and also as previously discussed with the duration of the contracts as professional and administrative workers tend to work on long-term contracts whilst care workers are generally engaged on a short-term basis. The differences of pay and professional status and length of placement will allow me to consider a variety of factors that may affect issues of voice.

IDS (2003) reported that nationally agency workers made up a relatively small part of the Local Government workforce, and most agency workers were found in clerical and administrative roles as well as Social Work and care work. They found that wages were higher for professionally qualified workers than for their permanent counterparts, but that manual workers were paid at around the same rate as directly employed workers. They suggested that all workers fared worse in terms of pension and holiday entitlement. Most Local Authorities were unable to make an assessment of the relative cost of agency staff compared with permanent staff; they were also unable to assess the impact of the use of agency workers on service delivery. One third of Local Authorities were unable to provide figures of the actual number of agency workers that they employed.

IDS (2003) identified the difficulty in accessing information on the use of agency workers in Local Government. The research was conducted using a survey and interviews at six case study Local Authorities. Difficulties arose because decisions to recruit and terminate agency workers were made by local line managers and no data

were collected across the local authority by HR. Four of the six local authorities that they interviewed were unable to even provide an assessment of how the cost of using agency workers compared with permanent employees. These problems are indicative of the difficulties involved in researching this group of workers and reflect some of the challenges that were faced in undertaking the research for this thesis. The paucity of information held centrally by local authorities on agency workers makes them difficult to identify and research, it would also make it problematic for trade unions to identify, recruit and represent these workers.

The information that is available for the use of agency workers in Local Authorities points to their increased use in key professional roles (LAWSG; 2005, 2006). While some of the growth in the use of agency workers in such roles is likely to be demand-side driven, including employers wanting to cover sickness absence and short-term vacancies, supply side reasons also figure highly as employers are unable to recruit permanently to some key posts. This research indicated that some managers felt compelled to use agency workers because despite repeated recruitment efforts they had been unable to recruit any permanent staff. A key feature of the increased level of agency workers in Local Government Social Work is the desire of managers to recruit permanently and the supply side pressure to continue to use agency workers.

In summary therefore, agency and casual workers are employed in local government across the occupational spectrum for reasons ranging from reduction in cost for many non-professional roles to labour market shortage and high staff turnover for social work and occupational therapy jobs.

Procurement of agency workers in local government

Traditionally agency workers in local government have been recruited by line managers directly contacting agencies with their requirements on an ad-hoc basis. LCE (2005) argue that this is an uncontrolled approach and that there are significant problems with this method of procurement. With ad-hoc use of agency workers it can be challenging for an organisation to calculate its agency spend, to manage the risk of workers accruing employee status and to assess the added value that these workers bring to a functional unit. The lack of high-level management information poses three types of challenge: Firstly it is not possible to get a full picture of organisational staffing without knowing the extent of agency working within an authority. Secondly, it is impossible to assess whether there are equalities issues, such as gender or race discrimination on an aggregate level for agency workers. Thirdly, it becomes impossible to manage an effective strategic approach to intertemporal recruitment at best and basic staff cover at worst. There may also be varied terms from the agencies involved, including whether a 'temp to perm' fee is charged, the level of the fee and also the level of commission for the agency. It may be difficult to audit the checks on workers done by agencies, which may be particularly problematic for checks that are legally mandated like work eligibility and CRB², especially where many workers are supplied by a variety of agencies. Furthermore it can be challenging and costly to manage procurement of these workers or to ensure that managers within organisations comply with corporate purchasing guidelines and recruit from contracted suppliers. Eastern Shires Purchasing Organisation (ESPO), an organisation bringing together a number of local authorities to consolidate procurement, noted a variety of issues experienced by its local authorities in the use of ad-hoc procurement of agency workers:

² Criminal Record Bureaux checks to exclude people that are unsuitable for working with children and vulnerable adults due to a criminal conviction

- Temporary agency workers have not possessed appropriate qualifications or knowledge / experience to meet the person specification specified; for example in terms of workers having suitable skills.
- Agencies have been unable to source certain categories of staff i.e. Professional or Technical staff.
- Agencies have charged high rates of commission across the board, regardless of job category.
- Agencies have attempted to charge introduction fees to the authority when a Temporary Worker has applied for a vacancy via the Participant's equal opportunities procedure
- There are high internal costs relating to both transaction processing and overall contract management.

(Eastern Shires Purchasing Organisation 2006)

Despite the many concerns about the ad-hoc approach, it has often been the way agency workers have been procured by local authorities. A variety of alternative arrangements exist from the provision of preferred suppliers' of agency workers, with contracts and service level agreements, to master vendor arrangements that effectively take responsibility for procurement of all agency staff. Since the late 1990's there has been increasing use of a third party to co-ordinate the procurement of agency staff as well as the growth of dedicated centralised procurement functions within local government. LCE identifies four options for a managed service procuring agency workers: vendor neutral, master vendor, internal solution and partially outsourced human resources.

Vendor neutral solutions mean that staff are not provided directly by the vendor.

Agencies are tiered based on a variety of factors but performance is often cited. The vendor manages the procurement process by sending out the person specification initially to the first tier of agencies. They manage the procurement process and act as a single point of contact for line managers. Managed vendor services are similar, but they also supply agency workers directly. These approaches share common advantages including reduced cost, better quality of staff and checks, better management information and improved vacancy fill rates. (Matrix 2006) (<http://www.matrixmanage.com> website, 24/7/06)

An internally managed service is essentially the same as the neutral vendor option. However it involves the creation of a department to choose suppliers and manage the process of procuring agency workers. LCE (2006) note that the cost of doing this may be impractical, particularly where an out-of-hours service is needed and that the local authorities may not possess the expertise to run the operation effectively.

Partially outsourced human resources is potentially the most radical option as it involves outsourcing all recruitment for permanent, temporary and agency staff. A master vendor is appointed to manage all recruitment and advertises permanently for some positions whilst filling others with through the normal MV process. This approach is less common than the MV and NV options.

In addition to the options identified above many local authorities use internal agencies to supply certain groups of workers. The five local authorities that I interviewed mentioned such arrangements in relation to library staff, care workers, administrative workers and teachers. These agencies are sometimes referred to as 'casual pools' or

'banks'. Workers normally work under causal contracts meaning that they are not obliged to accept work and nor is the organisation obliged to provide it. These staff are not referred to in the LCE (2005) report, nor are they mentioned in other documents on agency workers.

Unions in local government

From the beginning of the twentieth century local government employers have viewed trade unions as important and legitimate organisations for assisting workers in articulating their interests. Local government employers generally have encouraged unionisation and joint regulation of terms and conditions of employment. The trade union with the largest membership in local government is Unison. It was created out of merger between three public sector trade unions, the National and Local Government Officers Association (NALGO), National Union of Public Employees (NUPE) and Confederation of Health Service Employees (COHSE) in 1993 (Terry 2000). Until the creation of Unite from the amalgamation of Amicus and T&G in 2007 Unison was the United Kingdom's largest trade union. It has 1.3 million members across the public sector and in private sector organisations that provide public services (Unison, 17.10.2007). It has over 1200 branches throughout the UK and 13 regional offices.

The unions that came together to form Unison had different membership bases, organisational structures and political affiliations. Within local government both NALGO and NUPE had representative structures that were amalgamated into a single structure within each local authority. Whilst union membership is still split between GMB, Unite and Unison in most local authorities Unison's share of members is

massively larger than the other two trade unions.

In addition to Unison, both Unite and GMB have members within some parts of local government. Neither union has a significant presence in social care. Because Unison is the union that represents most workers in local authority social care, particularly within my case studies, this thesis primarily looks at its role in facilitating voice for agency workers in this context with limited consideration of the policies and practices of GMB and Unite.

Whilst the UK system of collective bargaining is primarily based at the workplace, within local government collective bargaining is conducted at national level. Separate collective bargaining arrangements exist for different staff groups. The largest of these is the Local Government Service National Joint Council (NJC). There are also national bodies to deal with Craft, Youth and Soubury employees and separate arrangements for Teachers and Fire fighters.

The vast majority of social care staff fall within the local government Service NJC. It is comprised of local government employer representatives and representatives from Unison, Unite and GMB. It was formed in 1997 and covers most local government employees, and is the largest bargaining unit in the UK. There is also scope for local level bargaining, the incidence of which has increased in recent years. The present system for NJC staff rests on national level framework negotiations with local flexibility for detailed pay rates and conditions. Not all local authorities are members of the Employers' Organisation, and therefore bound by the collective agreement, however the two local authorities presented within this thesis are.

Professional associations also exist within the public sector. Some of these, like the teaching unions, represent workers at the workplace, in pay setting through pay review bodies and at a professional level. Others like the British Association of Social Work do not engage with employers in collective bargaining, preferring to focus on professional matters. Within social care there are two professional associations; one represents social workers and the other occupational therapists.

Membership of BASW is open only to professionally qualified social workers. Benefits of membership include access to the advice and representation service, professional indemnity cover, personal injury insurance, access to training courses and conferences at discounted rates, subscription to the association's monthly magazine discounts on other publications. In addition BASW facilitates a wide variety of branches, committees, special interest groups and international contacts to provide forums for different types of people to gain support from other social workers. These services are not premised upon the assumption of direct employment.

Whilst the UK trade union movement is clearly focused upon the workplace, BASW undertakes little workplace representation. It does have a small advice and representation function but this is certainly not the major focus of its activity. It explicitly advises members to also join Unison. BASW members that are not also members of a trade union are not officially entitled to advice and representation in relation to service conditions or problems at work. Union members are entitled to support if union representation has been inadequate. This naturally limits the level of representation on workplace issues.

Chapter 5 – Outlining City and Met

This chapter offers a broad background to both local authority case studies. It identifies that most agency workers in both local authorities are employed for the traditional reasons of covering vacancies and absence. The arrangements in place for the procurement of agency workers are reviewed, outlining the internal and external agencies used by both authorities, and the advantages and disadvantages that managers identify in using agency workers are then discussed, broadly finding that agency workers provide valuable cover where vacancies cannot be filled, and in some cases are a lower cost option. For most managers these positives are outweighed by the performance problems associated with the use of agency workers primarily arising from their impermanence.

Background to City

City covers a small geographical area with a population of just over 230,000. The number of people living in the area covered by City is declining mostly as a result of outward migration and little inward migration and the birth rate is declining more quickly than average. The area has a significant industrial heritage but its traditional industries have suffered major decline which is visible throughout the area. The industrial history of the area is important to unionisation; many council workers have previously been employed within mining and manufacturing that had significant trade union presence. The area experiences high levels of deprivation. Around one in four of the population live in areas that are in the 10% most deprived areas of England.

Average household income is more than 25% below the national average and levels of income support are 50% above the national average.

City employs 12,000 staff. A recent and ongoing restructuring makes it difficult to assess the number of social care staff and particularly within Children's Services. City has retained all its older people's care homes and staffs them internally. For this reason they employ more staff in Older People's Services than other authorities.

The staffing situation for social workers was very problematic with many teams being under resourced. The lack of qualified social workers was noted in City's Joint Area Review (2006) which pointed to a lack of suitably trained and qualified staff dealing with looked-after children. The corporate assessment report (2006) cited persistent failures to address recruitment and retention problems in social care. In interview human resource officers alluded to 25% vacancy rates in some social work teams in Children's Services, though the rate in Adult's Services was much lower.

The recruitment and retention problems experienced by City have resulted in a reliance on agency social workers in Children's Social Care. Adult's Social Care made a whole service decision in early 2006 not to use agency workers. Those interviewed were amongst the very few remaining and all of them were in the process of converting to permanent contracts or leaving the authority. Managers reported that the key reason for discontinuing the use of agency workers in social work roles was budgetary. Agency social workers were used primarily to cover vacant posts because no permanent workers could be recruited.

At the time of the research, the decision to fill a post with an agency worker was taken by the line manager along with their head of service. Line managers then decided which agencies to use and how to recruit agency workers. Because agency workers were recruited in this way and there was no central reporting, there was no management information available about the agency workforce within City. No centralised monitoring took place on the length of placements, demographics of the workforce or cost of individual agency staff. Second and third tier managers generally kept track of the number of workers and some details, but this information was not centralised nor was it generally up to date. Management consultants were in place to review the agency situation in City; when they requested a list of all agency workers within the authority they received different information from each directorate.

There seems little consistent understanding on the part of managers at all levels of what an agency worker is and whether or not consultants, interim managers, casual workers are included. The local authority's finance department was able to produce accounts for departmental spend on agency workers broken down by agency; however they believed that the information was very questionable and that the actual spend could be up to 100% more than what was reported. This uncertainty led to problems with my contacting agency workers within City and difficulties in arranging for my questionnaire to be sent to agency staff.

The difficult accessing managers and agency workers is exemplified by the failure of the Human Resources department to put together standards for the recruitment and employment of agency workers. For a period of over 12 months HR had been attempting to speak to line managers and heads of service to formulate standards to give

to agencies and line managers in order to standardise the treatment of agency workers, primarily focused on agency social workers. At the time of the research the project had been shelved as no managers had been willing to meet with the HR department.

Agency care and administrative workers were also used within City. They were used for three main reasons; firstly care workers were used for short-term cover for absence, annual leave and staffing shortages in care homes. Secondly, both administrative and care workers were used to cover vacancies during recruitment. Finally administrative workers were used to cover projects and roles when there was a recruitment freeze. These workers were supplied by a variety of external agencies and the two internal agencies. Managers requiring administrative and care workers were expected to use the internal agencies as a first port of call and to use external agencies only when workers were not available internally. There were no processes in place to define which external agencies should be used. The authority was aware of the problems associated with agency workers accruing employee status through repeat contracts; in fact within Children's Services an agency worker had submitted an employment tribunal claim for unfair dismissal. This awareness had not translated into guidance for managers or training and other than financial controls there were no constraints on managers selecting the workers that they wanted.

City had two internal agencies, one managing teaching and administrative staff and the other managing care workers. They operated quite differently from each other. Both recruited through the council's normal recruitment procedure. The internal administrative agency placed staff for periods of around twelve weeks and then required that they have a break in service of at least a day before their next placement. They

allowed staff to have up to two consecutive placements with the same work unit. The internal agency for care staff operated very much like an external agency offering staff in very short-term placements. Managers contacted the casual care pool to fill shifts within older people's care homes, often they provided a list of shifts up to two weeks ahead that they need to be filled but they also requested people at very short notice. Their staff included people that worked within the council and wanted to work additional hours and external candidates that had been appointed only to do internal agency work. Occasionally applicants that were unsuccessful for permanent care work with the council were referred to the internal agency for casual work. In both cases, the authority believed that the costs involved in using casual staff were lower than those for external agency staff filling similar roles and the council felt that, as these staff had been through the rigorous recruitment process and an induction, they are better placed to meet the needs of the authority. In a recent review of spending on internal agency clerical workers the authority came to the view that they ceased to provide the most economical option and were therefore expanding the use of two external agencies to provide clerical and administrative staff.

It is helpful here to outline the conditions of service for these workers. Both internal agencies 'employed' workers on a casual basis, these staff were not considered by City to have employee status with the local authority and were not entitled to sick pay. They had recently been given access to the local government pension scheme. They were engaged in a triangular relationship and were recruited and inducted by the internal agency and placed by them in suitable postings. Whilst within these postings they were managed by the workplace manager and most training was at the local manager's discretion. This relationship was very similar to the relationship for external agency

workers with one important difference, both the agency manager and the local line manager were ultimately agents of a single 'employer'. This may have two consequences, firstly it may be more likely that these workers are considered employees and secondly, it may allow workers a greater opportunity to challenge workplace issues via the internal agency managers who would not have a merely commercial relationship with the organisation.

Background to Met

Met's Corporate Assessment Report (2007) notes that it is a medium sized outer London borough with a population of 250,000. The community is ethnically and economically diverse. Its Black, Asian and Minority Ethnic (BAME) community stands at 36.5%. There are huge disparities between the wealthiest and poorest sections of Met. One ward is in the 5% least deprived in England with an unemployment rate of 1.4%, with another ranking in the top 11% of the most deprived wards in England with a staggering 8.1% unemployment. These figures contrast with a UK average unemployment of 3.4% and an outer London average of 3.5%

The local authority reports that while it is representative of its community with regard to black and white workers, it struggles to be representative of Asian workers. Within older people's services the authority employs eight hundred people but it has outsourced significant parts of its function including 81% of home care and it only retained one care home in house.

Both GMB and Unison have full time representatives supporting social care staff. Tension during the Unison merger meant that a substantial number of long standing union members within the social care workforce transferred their membership from NALGO to GMB. Unison and GMB both report around 25% density. Social workers and occupational therapists also joined their professional associations.

Like other London boroughs Met has recruitment and retention difficulties within social care particularly with social workers and occupational therapists. It has launched a campaign to recruit in this area and has increased both financial and non financial rewards. Agency social workers are used primarily to fill vacant posts that managers are unable to fill on a permanent basis. Agency workers are also used in administrative and care roles. Agency care workers are used for three main reasons, firstly to cover absence and holidays in day care centres and care homes, secondly to fill posts on an ongoing basis when there is a recruitment freeze and finally to cover a finite piece of work such as when a service user needs additional assistance for a set period. While there are severe recruitment and retention problems in social work, the same is not true of care work. Most permanent care workers are long standing members of staff and vacancies are rare. Agency administrative workers are also used to cover sickness absence and holidays, projects and where recruitment freezes are in operation.

Met is part of the London Contract and Supplies group, a procurement group encompassing local authorities in the Greater London area as well as other public sector bodies. Its purpose is to jointly negotiate purchase contracts. It has recognised the potential cost savings and organisational benefits of the Managed Vendor approach and has two negotiated contracts that can be implemented by its members. The first contract

is for administrative and clerical staff where a local authority has negotiated agreements with three agencies, Select, Adecco and Spring personnel, to introduce common standards, reduce costs and administration and create savings by aggregating demand (<http://www.lcsg.org/site/about.htm>, 17/7/06), though Met has chosen to use Adecco as its sole supplier. The second is a master vendor arrangement where another authority has negotiated a contract with a master vendor for technical, professional and care staff.

In addition to its external agency partners, Met has its own internal agency for care and administrative workers that is set up to operate like external agencies. Workers are recruited locally though normal council recruitment procedures on casual contracts. The intention is that these workers do not accrue employee status and they are informed that they do not have to accept work, nor does the council have an obligation to provide any. Managers are able to call the casual pool to fill roles either on a day by day basis or for longer periods. Managers are expected to try to use the casual pool in the first instance where possible rather than using an agency.

Within Met, one external and one internal agency are used to supply administrative staff. For all other staff, a master vendor arrangement was in place. This meant strict monitoring of the use of agency workers, co-ordinated by an external company. As noted in line with the national figures, Met experiences recruitment and retention difficulties. Its Social Care & Health Adult Services Joint Workforce plan candidly notes:

“Social care roles are in general relatively low paid and stressful and the nature of work is demanding. Time pressures create conflicts, especially in domiciliary

care where there are often anti-Social Working hours. Personal security issues and the levels of violence, threats and abuse, especially in residential and day care settings, contribute to the recruitment difficulties experienced in this sector...The demand for all levels of staff outstrips the supply” (2006: 12)

In the last chapter the national trend to an ageing workforce was noted. This is also of concern to Met. In line with the national trends, 20% of the permanent workforce is due to retire in the next ten years and less than 10% are under thirty. For home care staff, the figures are even more stark; almost half of home care staff are due to retire within the next ten years. The highest levels of vacancies at the time of the research were amongst social workers (21%), followed by day care (15%), domestic (13%) and administrative (13%) staff (Social Care & Health Adult Services Joint Workforce, 26 2006). Whilst there were clear staff shortages in many areas, not all agency workers were in place due to the inability to recruit permanent staff. There was some uncertainty about the future of the day centres at Met and this resulted in vacancies being covered by agency care workers rather than being advertised as permanent roles. Some agency workers were also taken on for projects, to cover for sickness absence and holidays.

The highest levels of agency staff are found in social work and occupational therapy. Since appointing a master vendor and a single agency for administrative staff Met has monitored the demographics of its agency workforce in a similar way to its permanent workforce and detailed information was available on ethnicity, age, disability and gender.

Met has recognised the scale of its recruitment and retention problems and has undertaken research to see what might encourage workers to take permanent roles. This has included labour market research leading to increased pay for social work staff. Other ideas under consideration were the possibility of very flexible contracts with workers being offered six months on and six months off or term time only work, the opportunity to take a long leave of absence if requested, and the possibility of rotating through departments to get varied experience. Each of these has been considered following discussions with agency social workers within the local authority about the benefits of agency work, questionnaires, exit interviews and preliminary feedback from this research.

The master vendor arrangement for the procurement of agency workers at Met means that an external organisation co-ordinates the recruitment of agency staff in care, professional and technical roles. Managers supply the role specification and the master vendor requests that suppliers from a preferred supplier list provide people meeting the specification. The manager is then given a fixed number of curriculum vitae meeting the specification within the cost parameters to review and decide who to interview. Master and neutral vendors market themselves as efficient; a way of reducing agency spend, minimising management time recruiting agency workers and reducing transaction costs by single invoices and electronic time sheets. For managers, this arrangement means that there is a single point of contact. Master vendors do not become an intermediary in the employment relationship and are not involved in resolving workplace issues. The master vendor accepts a job specification from a manager, sends on to the list of preferred suppliers, collates their responses and checks that they meet the job specification and then sends an agreed number of candidate

profiles to the manager. Once MV returns candidate profiles to managers, they become involved only in the administrative and financial aspects of appointment. Managers are expected to make recruitment decisions. Whilst the rate paid to the worker is variable, the agency mark-up is agreed with each supplier. The major savings accrued by the master vendor solution at Met are in the reduced level of mark-up, meaning reduced cost without any additional risk of receiving less experienced or lower quality staff.

At Met, officially, procurement of all administrative and clerical agency staff should have been via Adecco from April 2006 all other staff should have been recruited through the master vendor. At the time of the research, most agency workers at Met were employed prior to the master vendor arrangements being finalised. Generally, managers individually contacted their agency of choice (usually from the preferred supplier list prepared by HR) and recruited via them.

The detailed management information held by Met on agency workers allows the authority to identify agency workers who they consider to be at risk of accruing employee status because of their length of service. Where an agency worker has been in a single placement for nine months managers are informed, and they are asked to contact employee relations before termination of contract. Managers are expected to dismiss before the twelve month mark. However, there was no monitoring of the 'cycling' of agency staff where they are used repeatedly by different departments within the authority with no break in service.

Advantages and disadvantages of using agency workers

Agency workers were used at Met and City for four key reasons. Firstly both Local authorities had severe recruitment and retention problems in social care and were unable to fill permanent posts. Agency workers were used to fill such vacant posts either while recruitment campaigns were ongoing or long-term (months to years). Secondly, both Local authorities used agency workers as short-term cover for holidays and absence (usually on a shift by shift basis) in care homes to ensure that minimum staffing requirements were met. Thirdly, administrative and care staff were used to cover vacancies and projects normally lasting up to six months. Finally, at Met, agency workers were used in day care centres primarily because there was some uncertainty about the future of the service, so no permanent posts were being filled. Managers in this setting also said they thought agency workers were a helpful part of their staffing structure because they were cheaper and offered more flexibility.

Traditional reasons for using agency workers were cited as the primary reasons by most managers, agency workers were most commonly used to cover absences and vacancies. Only Met used agency workers in a strategic manner replacing permanent employees to add numerical flexibility and to protect core staff from changes in the structure of the organisation.

I have categorised the advantages and disadvantages of using agency workers into three areas: financial, labour market and performance.

In the main the advantages and disadvantages are two sides of the same coin. The Director of adult and community services at Met cited the advantages as:

“Flexibility, immediacy, the experience is more diverse, they take less time to recruit... [and] in the short-term they can be cheaper”

But the flexibility and immediacy in terms of getting people into the organisation is mirrored by the speed with which they leave. The variety of experience that workers have often means that they have not stayed long in a role or area to get the depth of experience some placements need. The savings in the short-term are not sustained when these workers remain in role for long periods. The following section will expand further on these areas.

Financial

Agency workers could be cheaper than their permanent counterparts in a number of ways. For some agency workers, generally care workers and administrative workers, the direct payroll cost was lower even when accounting for the agency mark up. Agency workers can be recruited without expensive advertising and lengthy recruitment processes which means a saving of management time and advertising costs. Agency workers do not present additional costs for sickness, pensions, annual leave, and have reduced costs for management and training. The county local authority gave line managers a breakdown of the total cost of employment of their permanent staff which included pay, pensions, management and accommodation costs so that they were able to compare the cost of agency workers with the total cost of permanent staff. The three

managers at County reported that using this costing agency social workers were not significantly more expensive than their permanent counterparts and that some were cheaper. Some managers cut costs further by excluding agency workers from team meetings and briefings so reducing their working hours. While in many cases agency workers are cheaper than permanent workers, a number of managers reported that agency social workers were substantially more expensive than their permanent counterparts.

Labour market

The significant recruitment and retention problems facing both Met and City mean that an advantage of using agency workers was simply the ability to cover critical work. One manager said that recruitment had been an 'arms and legs count' and that essentially the state of the labour market meant that any social worker that they could recruit, even an agency social worker, was a win. While the recruitment and selection process in local government is long-winded, agency workers can be recruited very quickly:

“For me it is very simple,[using an agency worker] gives you an immediate stop gap. If I look at the employment process from the point that a worker leaves the team to having a permanent employee in post filling that post, if everything goes well I am probably looking at six months. For me I can pick up the phone and have somebody in post within, if I am lucky, a couple of days but being realistic probably a week. It is a very very attractive benefit to cover work.” (MHT Manager, Met)

For care workers in residential homes the main benefit of the use of agency workers was the ability to meet statutory obligations for staffing levels quickly and easily. In day care centres, the speed of recruitment was helpful but they also found agency staff cheaper than permanent staff. Managers in the day care service also anticipated changes in structure so agency workers were used to reduce the potential for redundancy of permanent staff and as a workforce that was 'disposable' in case of future changes in structure and reductions in staffing numbers. This use of agency workers as a buffer to protect permanent staff is in line with the core/periphery model, but this accounted for only a very small proportion of agency workers employed.

Performance

It is clear that the use of agency workers in some respects enhances performance because it means that there are workers in post doing critical work where recruitment and retention difficulties are such that no permanent workers can be recruited. Agency workers also allow for quick adjustments of staffing levels and cover for absence at short notice which some managers noted enhanced performance. That said the majority of managers felt that agency workers impeded performance because of their impermanence, the effect of their higher pay levels on morale and the potential for them to be poor quality workers.

The labour market advantages of flexibility in terms of the speed of recruitment are mirrored by performance problems that were attributed to the impermanence of agency workers. The impermanence of these workers meant that it could be difficult for them to establish relationships with service users and colleagues, and they could leave at very

short notice. These observations were made mainly by managers of agency care workers and social workers for whom personal relationships are an important part of their working lives.

“I think on a short-term basis they don’t have time to get to know the service users properly because it is a long process” (Day care manager, Met)

Social work managers noted that it was inevitable that they would spend time in supervision and training developing all their staff including agency workers which would offer fewer rewards due to the more limited tenure of agency workers:

“you invest in your staff, in their careers and career planning, that’s lost on agency workers.” (Director, Met)

The cost of agency social workers was a major concern, not just because of the budgetary strain but also because of the effect on morale.

“it has an impact on the team because from their point of view, people come in newly qualified, earning the same as a senior practitioner, earning more than they are, with no responsibilities and no commitment... It still stings a bit with some members of the team because agency workers say, I am having a day off tomorrow, right ok, whereas they can’t” (Adults’ social care Manager, City)

Some managers suggested that deficiencies in the performance of agency workers might

not be discovered until they left and someone else took over their case file. One of the big disadvantages of using agency workers was the fact that they could leave at very short notice, and as a result may not have up to date files on service users.

“If a social worker is cutting corners or hiding things, when they have only been here for a few months at a time, it isn’t until they have gone that you find out all the things that they have not done.” (Adults’ social care Manager, City)

The speed with which agency workers enter the organisation is mirrored by the speed at which they can exit, and most managers at City identified that at least some of their previous agency workers had left unfinished work without a handover. What was characterised by the director at Met as ‘weaker ties to the organisation’ was routinely cited by managers as the biggest problem when using agency social workers. It must be noted here that all the social work managers that I interviewed wanted permanent staff rather than agency because their focus was upon the needs of the user for continuity, particularly where the service user was a vulnerable child. Managers suggested that the weaker organisational ties that agency workers had with the user organisation impacted on service delivery, morale, continuity, professional development and their ability to effectively manage workers, particularly where there was a problem with their competency or conduct.

Within residential care establishments, one manager identified that an agency had provided workers that could not lawfully work in that establishment because of their age. He mentioned that some agency workers did not arrive to do the work themselves and sent a friend or family member instead. Clearly the problem in workers doing this

is the lack of training and control. The authority has not approved these workers, there is no guarantee that they are CRB checked and no references have been taken. When these staff are working with vulnerable people it is of real concern. As a result of these problems the manager believed that the agency sending these workers was discontinued. Other managers identified it as an agency that was still used. The manager who identified the concerns with CRB checks decided to agree measures to prevent future problems with unsuitable agency workers being placed. He agreed a 'passport' scheme with an agency for their care workers, which meant that they would have photo ID with their CRB number and name. This agency had grown to become the largest external provider of agency care staff within the authority.

All managers were clear that given the choice they would recruit permanently because the disadvantages of using agency workers outweighed the advantages, except for filling a short-term staffing gap for example, whilst a recruitment campaign was ongoing. While some care managers felt that having a section of the workforce made up of agency workers on an ongoing basis was helpful, they were generally concerned that the posts that these workers occupied may be cut from the permanent structure if the authority faced financial problems because they were not occupied by permanent staff. The main reasons that these managers thought that agency workers were a helpful part of their workforce was that they were cheaper to employ and could be used in a more flexible manner. Other managers were more concerned about the shortcomings of using agency workers in terms of team morale, budget, performance and continuity for service users. Some managers, particularly of social workers, felt that there were more disadvantages than advantages even taking into account the speed of recruitment and flexibility that agency workers offered.

Chapter 6 – Management of agency workers

This chapter addresses the management of agency workers, looking at the role of the user organisation and the agency. It outlines the diversity of treatment of agency workers both within and between Met and City. In so doing it will provide an analysis of the management of agency work within the case study context and also give sufficient background to set up the themes addressed in subsequent chapters. It argues that the management of agency workers is diverse and that their experience of work will vary not only between organisations, but also within the same organisation between managers. It demonstrates the lack of formal arrangements for dealing with disciplinary or capability problems, and the varied approaches to the management of these workers. The involvement of both the user organisation and the agency in the management of these workers is discussed and the difficulty in identifying who is responsible for which aspects of management is highlighted. It offers insight into the areas in which agency workers are able to have influence on the organisation of their working lives, such as negotiating pay, flexible working and taking leave at short notice. It also highlights those areas where they have little access to voice such as where disciplinary or competency problems arise, in accessing the grievance policy, the lack of appraisals, being excluded from team meetings and briefings and staff surveys. This discussion provides the background to understanding how agency workers come to view issues at work and their ability to participate in organisational decision making.

Managing agency workers

The view of the Director of Community Services at Mets on the management of agency workers was:

“We expect that agency and permanent staff are taken through the same rigorous process for recruitment and induction. The expectation is that there aren’t differences in the treatment of agency workers and permanent staff. There is an induction check list that should be completed for both groups. Unless you have insider knowledge you shouldn’t be able to tell in a team who is and isn’t an agency worker... It is explicit that agency workers are managed in accordance with our policies by our managers.” (Met Director, interview)

Despite this clear statement of expectation, the reality for managers at Met and City is that they manage agency workers differently; arguably as a result of the lack of training and information on what is expected by the authority. This chapter highlights similarities and differences both within and between the case study sites in terms of recruitment, training and general day to day management. Workers receive different treatment from managers in both authorities, with some treating them as if they were permanent staff and others regarding them as a disposable resource with commensurate treatment. The triangular employment relationship and particularly the limited employment protection afforded to these workers allow such treatment. Views on agency workers also vary, some managers seeing them as more highly skilled than their permanent counterparts in certain professional roles, to others viewing them as the poor quality workers unable to get permanent jobs. The diversity in the management of agency workers found in both sites supports the view that agency worker treatment is very much at the discretion of the organisation and the manager. Management of

agency workers is reviewed in three general areas: recruitment and selection, training, and general management.

Managers do not receive training on the management of agency workers at either Local authority. At Met, Adecco (an external agency) provides a 'management tool kit' to inform managers how their agency workers should be treated and what issues should be fed back to them. However, only managers that have Adecco staff will be given this document. When the MV arrangement was introduced, all managers received training on the new recruitment process, however these sessions did not cover the management of agency workers. There is no guidance available to managers on which policies to use, how to manage problems as they arise or on what issues should be fed back to senior management or HR. In contrast a full set of policies was available for the management of directly employed staff, with management training available to all managers of directly employed staff.

Fairness in recruitment and selection

Recruitment of agency workers is dealt with in two stages; the agency in recruiting workers onto its books and then the user organisation recruiting agency workers into a post in their organisation. It is helpful to identify the role that agencies are seen as performing by both the workers and user organisations. Their role was succinctly put by an agency social worker:

“from what I can gather many years ago there was such a shortage of social

workers so recruitment agencies popped up everywhere thinking it would be a good money making machine and it has proven to be. These recruitment agencies find positions that are available across the country and they have rosters of candidates that are looking for work, and they sort of pass out resumes and set up interviews. Basically the local authorities and the candidate do the rest of the work.” (Agency social worker, City)

Recruitment of agency workers differs somewhat depending upon both occupation and geographic location. Internal agencies confined themselves to the local labour markets and either did not advertise (relying on word of mouth to attract workers) or advertised only in local job centres. External agencies had a variety of ways of recruiting workers. For care and administrative roles, most workers were recruited by answering adverts in the local news paper, seeing posts advertised at the job centre or on-line. The majority of workers in these groups were local. Social work agencies recruited far and wide with some workers being recruited from overseas. Some social workers that I interviewed in both authorities were expatriate workers from Canada, USA, New Zealand and Nigeria. Some of these workers were recruited in their home countries, others had joined an agency upon arriving in the UK.

Internal agency workers and managers agreed that the internal agencies within both authorities took all workers through the standard ‘fair recruitment’ process used in both local authorities for all directly employed permanent and temporary appointments. The ‘fair recruitment’ process consists of applications, short-listing based on the person specification, and panel interviews where set questions are scored by each panel member with the highest scoring candidate being appointed subject to satisfactory

references. Adecco reported a somewhat similar recruitment process including an interview, a series of job related assessments and referencing. The external agency for social work said that it used personal recommendations and telephone interviews as well as references for recruitment.

External agency workers themselves said that they were not always interviewed before being placed by a new agency:

“I didn’t have a formal interview, I sent them my resume and I filled out an application package and did all that sort of stuff.” (Agency social worker, City)

All the agencies said that they received references before sending candidates out to interview. Many said that it was sometimes difficult to get references and that a bad reference did not always mean that a worker would not be placed:

“Yes, this is another grey area; references, because unfortunately you have managers who take personal dislikes to people. A couple of times I have experienced it. I had a girl where I worked before her manager gave her ...a terrible reference. And basically probably any normal person would not have employed her but I had been speaking to her and I couldn’t see that this reference was for the same person I had been speaking to, it just didn’t gel. So I phoned the manager and said to her OK you are saying you have got concerns with this woman's practice and she was working for you permanently so can you tell me how many disciplinaries has she had, well she didn’t have any. OK can you tell me how many warnings she has been given, well she didn’t have any

warnings. *So you are telling me I shouldn't place her because you have got concerns with her practice but while she was working permanently for you you were quite happy for her to run amok amongst your children and families and you never called her to task on anything. So for me that is not a true reference, that reference stunk, and basically I then spoke to the social worker and she had an assessment that had been done on her four months before and the assessment was all excellent. So basically what I did I managed to place her because I phoned where she was hoping to be placed and said this is the reference I have been given but I am also going to fax you over the assessment that was done four months previous to the reference, and you interview her and make up your own mind. It is a difficult one.*" (Social work agency manager, City)

In this case the agency manager said that she sent the reference to the user organisation but managers interviewed were not always confident that upon receiving a poor reference for a worker that an agency would pass it on.

Having been recruited by an agency, workers have then to be recruited into the user organisation. How the local authorities procure agency workers was outlined in the last chapter, this section is concerned with how managers make the decision to select a particular agency worker. Although the Met Director said: "*We expect that agency and permanent staff are taken through the same rigorous process for recruitment*" no line managers or other senior managers within Met believed that this was the case. In fact with the exception of the Director at Met all managers I interviewed in both local authorities agreed that the 'fair recruitment' process was always followed for directly employed staff and that it was never followed for appointing external agency workers.

Line managers tended not to have relationships with a single agency, and as such where more than one agency worker was employed within a team they had normally been sourced from different agencies. Within Met most teams that had agency workers had only one or two. Within City some teams were made up almost entirely of agency workers.

Rather than using the 'fair recruitment' process a plethora of practices were in place to recruit these workers within both local authorities. There were differences between recruitment of administrative and care workers working for short periods (up to a month) and those working longer term. Some managers of short-term agency workers requested workers for a particular shift or fixed period without looking at profiles or checking any details. Within City this was prevalent when managers were using the internal agencies. For workers that were going to be in place for longer periods generally managers wanted to consider profiles and normally to meet with workers before appointment. For administrative workers, generally managers requested a worker and soon thereafter one arrived. Sometimes they would send through a person specification and ask for someone with particular skills, however this was not always the case. There would generally be no interview by the manager. For care workers, when the internal agency was used managers would simply supply shifts and the pool would fill them with available workers, externally managers may look at a profile but no interviews would take place.

Once managers had contacted the master vendor at Met or the agencies that they individually wanted to use at City they received personal profiles from the agency about

individual candidates. Once profiles are received some managers made selection decisions simply on the information contained within them:

*“What I do, I ask for profiles from the agencies. We get that through and I have a look at it and I can make a judgement from the profile on the member of staff.”
(Residential home Manager, Met)*

Most line managers said that they would interview agency staff but this generally consisted of no more than a ‘chat’ to see whether they would fit in with the team, others did not and made a judgement on the basis of a CV or profile:

“I always interview them. I look that they have done the work before and I kind of go with a gut feeling. You know sometimes, you meet somebody and you know instinctively they are going to do the job well.”(Day care Manager, Met)

“We wouldn’t go through the [formal interview process], there are no formal questions, it is just come and meet me, I’ll take up your references or I will have a look at your CV and make a decision. There have been times when we have been so desperate for workers that basically it is an arms and legs count, you know but happily we have got passed that.” (Adults’ social care Manager, City)

Others identify quite formal interviews with two managers present. All agreed that agency workers were not subjected to the same process as permanent staff. Many managers indicated difficulties in recruiting agency workers. These generally included having insufficient candidates, having candidates that did not have appropriate

experience and of having few candidates actually turn up for their interviews:

“personally I have been trying to employ an agency worker since doing this job which is about three months and I cannot find one for love nor money. Just an experienced social worker to come in and pick up cases and run with them, I cannot find one. I have interviewed people and they have told me they can only do half the time I want them to do, or they don’t turn up for interview, or there is just nobody about. It is a mine field trying to employ a social worker.” (Social work Manager, City)

Managers generally acknowledged that the less rigorous recruitment process employed for agency workers had its drawbacks, primarily in terms of confidence in the quality of CRB checks and referencing. Permanent staff are appointed subject to satisfactory references and CRB and generally do not start work until both are received. All managers thought that agencies would only send CRB checked and referenced candidates. Nearly all managers insisted on copies of CRB checks and references, with some personally following up for further verbal references from the previous employer; many noted a lack of trust in the transparency of the agencies. One manager had never requested a copy of a CRB or reference. Within City some managers were particularly concerned, one mentioned two teachers in one of the authority’s schools that were recruited via an agency, who were eventually found not to be qualified and were dismissed and prosecuted (also reported in local press). No managers identified anything similar happening in social care, although many managers were concerned about the fact that it could occur, and would not necessarily be identified. For most managers, though not all, these concerns meant that they required documentary

evidence of qualification and CRB checks and most received written references from the agency and in a few cases verbal references directly from previous managers.

There was some scepticism about the accuracy of CVs of agency workers and most managers identified recruitment agents exaggerating the skills and experience of their agency workers. Longer serving managers with networks of colleagues in neighbouring authorities tended to make informal contact with people to ascertain the quality of workers being sent. Most managers had concerns about how thoroughly agencies checked workers:

“I had an agency contact me concerning my name given as a reference but within their CV they had stated that they were employed in my service. This person had never been employed in my service but I was aware of them having worked in another part of the service and that they had been dismissed for gross misconduct. Now clearly they had used the knowledge of a grander service and put down a legitimate bit of that service as what they had done because they didn’t want where they worked contacted. Now fortunately the agency smelt a rat for some reason, I don’t know why but they contacted me. I wouldn’t have enormous confidence that every agency acted in that way or may not be aware of it, and that is the risk. One relies on agencies to act in a professional way and by that I mean being thorough in checking out references but I cannot, and I might be wrong but I can’t push aside my view that that is their business. They earn money by providing staff and the most difficult aspect of professional agency staff is getting those staff and there is sometimes a conflict of interest there I think, or potentially a conflict. How close are they going to look, some I

am sure extremely thorough some may be not.” (Social work Manager, Met)

Another manager had an illegal worker sent through an agency:

“because they have not gone through the route of interview, and because our HR haven’t done their CRBs and references and things like that, I have been in the situation where police have wanted me to identify somebody by photograph as having two national insurance numbers and they are actually working illegally. There are those sorts of things you get yourself into which I think would be less likely through somebody who was recruited on a permanent basis.” (Day care Manager, Met)

Managers gave accounts of having workers that were not appropriate for a variety of reasons: poor references when they eventually arrived, illegal working practices and others who were behaving in very odd ways. One agency worker expressed his religious belief that his service users should have been drowned at birth rather than received the care he was employed to offer. Managers suggested that the lack of checks by the agency lead to unsuitable agency workers being placed and that the recruitment process for permanent staff would be unlikely to lead to the direct employment of such staff. Some managers stated that irrespective of the process they went through the quality of the workers would be lower because they were agency workers.

Managers acknowledged that while there were benefits to the very rapid recruitment process for appointing agency workers, there were also drawbacks. Employers were concerned about the quality of agency workers, and suggested that broadly speaking

agency workers were of poorer quality than permanent staff. They also argued that the lack of formal interviews coupled with minimal reference checking may add to suspicions about agency workers, as did the possibility of CRB checks not having been carried out.

To avoid some of the recruitment problems with using agency workers some managers developed long standing relationships with some individual agency workers and would personally recommend a worker to managers in other divisions. As a result, some agency workers remained with both authorities for a number of years, circulating around different departments.

“We have had people come back and ask for more work. One worker was in the Borough and worked various places and then he went agency and then he phoned up and asked if we had any jobs. He has kind of come and gone and come back again and then he phoned and asked me if I had got any other work but at the time I didn’t. So yes we do have people who will phone up and say, I have worked there before have you got any work.” (Day care Manager, Met)

“I have had an agency who has come in and gone out in the sense that he is a chap who has retired, a social worker, and we have taken him in as an agency to cover posts. So it wouldn’t be one post he is covering, he would cover a post, we fill that post, he will go off, and then we will have another vacancy for whatever reason and he will come back. As an individual we have used him quite a lot over a fairly long period of time but that has been covering a number of posts.” (MHT Manager, Met)

Most of the managers noted the benefits of workers returning both to the authority and to their particular centre mainly in terms of their proven track record and tacit skills. Such workers were used to the practices within Met and where they returned to the same centres they may have knowledge of service users. In addition using workers that have been used elsewhere in the organisation helps to avoid the problems with recruiting agency workers outlined above. Informal relationships also existed to the extent that some agency workers would contact their previous managers when they became available again to look for further work. In short there were no formal 'fair recruitment' practices in place when procuring the services of these workers and recruitment practices were often informal.

A full time Unison representative within City noted that the process of applying for a role through an agency could be attractive to some workers as the application form for working directly for the local authority was intimidating (at 7 pages long, plus equal opportunities monitoring form and occupational health form) and the process was long-winded. A number of years ago there was an initiative to get more applicants for care posts within the City. At that time Unison at City was involved in assisting local and migrant workers with literacy and found that the application form itself put a large number of potential applicants off applying for roles that they were qualified to do. Instead these workers would get roles through the external agencies where lengthy forms were not necessary. Unison felt that the fact that the same form was used to apply for the role of care assistant as was used for very senior organisational roles was problematic and a barrier to direct employment for many workers with poor literacy or for who English was their second language.

A number of managers identified that rigour in the recruitment of agency workers was less critical than it was for permanent workers because of the nature of their employment. Managers identified the shorter tenure of agency workers generally and suggested that as a result of this less time should be spent on recruitment. Many managers also identified the ease with which agency workers could be dismissed and suggested that recruitment practices may be more lax because workers proving unsatisfactory did not have to be a long-term problem.

Subsidised training of agency workers

Training appears to be an area of shared responsibility between agency workers themselves, temporary work agencies and user organisations. There is variation across the agency worker spectrum, however agency workers in this study generally receive less access to subsidised training than their permanent counterparts.

Permanently employed staff in both local authorities were expected to have a corporate induction where basic training was provided on a variety of areas. These included an introduction to the local authority, health and safety at work, discipline and grievance procedures, harassment and bullying procedures, fire safety and an introduction to the local union representatives. In addition to the corporate induction, they were expected to have a local induction with their line manager to help them to settle in to their new role, to handover work, and to identify any training needs.

However the amount of internal and external training received by agency workers at both local authorities is very much at the discretion of their individual manager and agency. Inductions generally occur, at least to cover the basics like hours of work, where the toilets are and what to do in the event of a fire. Some managers go well beyond this but it was rare and only one line manager reported giving agency workers the same inductions as permanent staff. Most long-term agency workers were offered training related to their role where necessary to meet statutory requirements or to learn in-house systems. Career development training was more mixed with most opportunity being offered to social workers for whom the training was necessary to keep up their professional registration. Most managers and agency workers agreed that training was more limited for agency workers than it was for their permanent counterparts. The exception to this was for external agency care workers within Met where managers believed that they received less training than their counterparts but agency workers themselves reported higher levels of training. The agencies that supplied these workers were required by the procurement arrangements to be part of the 'skills for care' agenda and provide career development training to their care workers. This resulted in the agencies providing training access to up to NVQ 3 courses for their workers, and requiring them to attend frequent refresher and basic training.

Many of the professionally qualified agency workers in this study reported that they did not have the same access to training and development opportunities provided by the workplace as their permanent colleagues. The results reflect what was found by Hoque and Kirkpatrick (2003) when they found that both full and part time non standard professionals had poorer access to training and development opportunities than their full time permanent comparators. My research findings support the view expressed in

Hoque and Kirkpatrick (2003) that being professionally qualified does not prevent non-standard workers from experiencing marginalisation with respect to training and development opportunities.

General day to day management

The day to day management of agency workers is almost exclusively down to the user organisation. Agencies have very little involvement except with regard to paying these workers or where managers from the user organisation or agency workers reported problems to them. Even annual leave is agreed first with the user organisation and then the agency. The agencies on the whole agreed that the day to day management was all done by the user organisation:

“When [agency workers] are on [Met’s] premises they are totally the responsibility of [Met] so their line manager, or whoever, would induct them on day one with health and safety and that sort of thing. Everything that happens to them on site is the responsibility of [Met]” (Agency Manager, Met)

Workers within social care work to an array of policies from those applying to most workers, like disciplinary and grievance, annual leave and dress code, to those specific to social work roles like policies around working with service users. For directly employed staff, all of the local authority's policies apply but for agency workers some of the applicable policies may belong to the user organisation and others to the agency. Identification of the policies and procedures that applied to other agency staff and the

people supposed to operate the policies was problematic. It was generally agreed that policies like those on dress code, health and safety and working with service users were in place at the user organisation and should be followed by agency workers. There was more difficulty over policies that were considered generic ‘personnel’ policies, in particular those governing discipline, grievance, competency and absence. Adecco were very clear that the personnel policies that apply to their agency workers are their own, not those of the user organisations. It was their view that issues should be fed back to the agency and not dealt with by managers. This was a view shared by HR within Met, however it was not the view of the Director at Met:

“It is explicit that agency workers are managed in accordance with our policies by our managers...We do have difficulties with agency workers when there is a disciplinary issue, there is a greater risk of complacency, people can move on quickly, before discipline. We have tried to take the view that we need to take these issues though to their logical conclusion.” (Met Director, interview)

Once again, the high level view was not completely consistent with the understanding of first line managers. Like the Director, most line managers felt that workers should adhere to all local policies, however their views on the need to actually discipline agency workers who had committed an offence were more varied, in the main suggesting that such workers would be asked to leave rather than face Met’s disciplinary policy. On the one hand managers in the main tended to believe that agency workers should work to local authority policies:

“While they are here I expect them to adhere to workplace policies. I don’t

know what policy agencies have with them but while they are working in this building they have to adhere to our rules and regulations.” (Social work Manager, Met)

“When they are working for us then they will follow our policies. So we still have an expectation that an agency worker will contact us if they are not going to be in that day. We would prefer they contact us and they should contact their agency but we don’t want them to contact their agency first and they tell us two hours later. Our policies around working with service users it is our expectations that they will follow.”(Senior Manager, Met)

But on the other hand they were not always willing to enforce policies with these workers:

“I think I would go back to the agency personally, because capability or things like that are usually with your permanent staff. Whereas if I had a problem... with agency you can get rid of them, why would you keep someone who was causing you problems? Just go back to the agency and say this person is no good you deal with it, because I wouldn’t be keeping someone on who was causing me grief.”(Social care Manager Met)

“We are quite clear that we are not happy with an agency member staff, we inform that member of staff and also tell them we are telling the agency and we will say we don’t want that person back again.” (Senior Manager, Met)

The most accurate assessment of whether Local authority or agency policies were in use when dealing with agency workers appeared to be:

“I should think it is a bit of both” (Residential home Manager, Met)

And

“Do you know something, I wouldn’t even know the agency’s policies, I am sure if I did something that went against their policies I am sure they would tell me. But as far as I am concerned I take people on explicitly that they will be abiding by the policies of the recruitment agencies and the Trust and the local authority.” (MHT Manager, Met)

The confusion by managers about the policies that should be used and who should manage them is a feature of the triangular employment relationship, and part of the confusion of broader management roles. Rubery et al (2003) report on similar issues dealing with contracted workers in a multi-agency environment. They noted that the presence of multiple organisations assuming some measure of control over workers could result in confusion on the part of both workers and managers over lines of control and job roles. They found that 'non-employers' felt the need to take on some of the role of the employer and in doing so introduced the possibility of workers being subjected to the control of an individual or organisation that had no accountability for them (Rubery et al 2003). Similarly within this case study the role of the 'employer' is problematic. Even where a legal employer can be identified as in the case of Adecco's agency workers, some of the role traditionally performed by the employer is still taken on by

the workplace manager. Some of the policies that the agency worker is subjected to are the policies of the workplace and not the agency employer. This places the worker in the position of being exposed to at least two sources of control: the agency and the workplace.

Performance management was an area in which the agency and workplace managers were both involved. All agencies reported moving workers as a result of performance issues, however the social work agency also identified offering practical support for a newly qualified worker with minor performance issues. Where workers were moved as a result of performance problems the agency managers indicated that most were offered different and often less challenging placements:

“Say there were just wrong for that role we would call them in and say sorry it didn’t work out, you weren’t right for that job...We would make sure that next time we put them into a booking that was maybe less demanding for them. And you learn about people’s capabilities from experience, it doesn’t happen too often I am pleased to say. But that wouldn’t be a reason not to use someone again. If it was consistent, and we did have one lady who was a delightful person and we had lovely reports about her but she was consistently not able to do the job. Unfortunately we couldn’t put her into too many things but it is not something we would discipline over either, we would tell her that it is very difficult to place her in these certain jobs because they were very demanding. We would keep her on our books and we would fully intend to give her work if something suitable came up. We would also say to someone like that spread your net and look at other agencies don’t just rely on us because sometimes the

work isn't forthcoming. We certainly wouldn't discipline them if their attitude was right but their capability wasn't great, we're not there to make people feel bad." (Agency Manager, Met)

Only the agency social work manager indicated discussing performance issues with individual workers and identifying training and support to assist with problems. The situation was similar for disciplinary issues, with agency managers suggesting that they should be involved in disciplinary situations but noting that they rarely were.

Managers had varied approaches to the policies under which their agency workers worked. The problems associated with managing agency worker discipline were recognised by the Director at Met, however this has not lead to a consistently applied approach to disciplinary and capability issues throughout the department.

More than half of the managers interviewed said that they had managed an agency worker who had a competency or disciplinary problem. Most of these managers did not use any official performance or disciplinary procedure, rather most terminated the placement and looked for a new agency worker:

"There have been situations where I have had agency staff that just haven't cut the mustard. We can normally pick it up fairly quickly and then I just say, well I don't think this is the job for you so goodbye, do you want me to ring your agency or are you going to contact them." (Day care Manager, Met)

"Rather than discipline them they would probably just be dismissed. The cost

can be prohibitive with the disciplinary process when you look at all the management time and HR time spent, so we just wouldn't do it, it would probably not be the same for serious professional misconduct though.”(Social work Manager, City)

“I can't say there haven't been times when a team leader has come to discuss with me an issue about staffing and I have turned round and said, well at least they are agency. In other words at least we can move them on, chuck them out, we don't need to have an ongoing problem.” (Day care Manager, Met)

Other managers noted the futility of using disciplinary or other procedures with agency workers. They suggested that the employment relationship with agency workers was fundamentally different to the relationship with permanent staff. That permanent staff could be managed according to their contract and policies in place, and that in the event of problems disciplinary action could be taken to effectively resolve them. This was seen as far more problematic for agency workers because they could not be made to comply with policies and that taking disciplinary action would result in them leaving. Managers indicated that there was little point in pursuing any form of disciplinary action short of termination of placement because it was not able to resolve issues:

“Some [agency workers] are reluctant to follow all our procedures, will work their own way, what is easiest for them, and it is not easy to discipline people. Not that I am a disciplinarian but it is difficult to bring agency people who don't work for you into line sometimes. Ultimately you have only got one sanction haven't you, go. Do it my way or go.” (Adults' social work Manager, City)

“Permanent staff can be dealt with via their contracts and we can make them comply with their contract, that’s not true for agency workers, especially when we are desperate, I guess we will put up with more.” (Director, Met)

One manager cited an agency social worker consistently arriving late and leaving early. Upon appointment, a standard working week had been agreed, however it was clear within the first month that this worker was not working a full week. The manager recounted discussing this with the worker who was only claiming pay for the hours that she worked. He was satisfied with the work that she was doing and wanted to retain her but also wanted someone full time. He decided that he couldn’t make her work full time hours and that it was better to accept a good worker for a shorter period than saying she had to work a full week and have her leave. He was clear that he would not have accepted this behaviour from a permanent member of staff, and he would have turned down any request for flexible working, however he felt that he had no choice as she was an agency worker in a shortage area. Like other managers he felt that the only sanction available was dismissal when an informal discussion did not resolve the situation.

A few managers did say that they had dealt with disciplinary or performance problems though in the main these were dealt with informally through supervision and additional support. The disciplinary issue involved a care worker making racist and sexist comments. His manager raised the issue with him and informed him that his behaviour was unacceptable, no formal disciplinary action was taken and the issue did not arise again.

The performance issues mentioned were all related to agency social workers. Four managers indicated that they had spent time trying to improve the performance of agency social workers. All these managers said that the reasons that they offered additional support were both because they wanted improved performance within the current role but also because they felt they had a commitment to their profession. It was their perception that terminating a placement may solve the immediate problem, but that such agency workers would simply become a problem for another team and that ultimately the service users would suffer as a result:

“We had an agency worker who was newly qualified so she wasn’t particularly experienced, and wasn’t particularly very mature either, really, and didn’t like the client group she was working with and would fall out with service users. So I would be constantly trying to develop her through supervision and I would go out to meet her service users, which I would not normally do that, and wouldn’t expect to have to do that, with an experienced, qualified social worker. And my team were saying, just get rid of her, she is useless, just get rid of her now, we will cover the work ourselves. My point of view was, no, this woman is a member of our profession, she needs to be developed, she will get another job tomorrow like that, at that time, because there were lots and lots of agency workers operating, and we will just move our problem to another team. So I worked with that worker for several months really to help her to develop because I did think, well, we have got a responsibility haven’t we to the profession, really, to develop people, whether they are newly qualified people, whether they are agency workers, or whether they are employed. So we did

resolve that for quite a while but she did eventually leave because there was one particular case that she didn't want to work with so she left. But we did work with her for a long time to keep her here.”(Adults' social care Manager, City)

This commitment to professional standards seems to override the managerial concern about the cost of supporting such workers and the ease with which their placements can be terminated. That said one manager noted that she would be reluctant to offer the same level of support to another agency worker in the future because of the level of the time taken and the limited benefit because of the relatively short tenure of agency workers.

The triangular relationship that agency workers have with their employers appears to shift the employment relationship towards significant informality, far from the bureaucratic model of public sector employment relations. Typically competency and disciplinary problems are dealt with by terminating the relationship or letting them slide rather than discussion, sanctions or support. Neither the agencies nor the workplace employer had instigated disciplinary or competency proceedings, though most managers had disciplined and or dismissed permanent staff for conduct or capability reasons. While some managers had spent time developing the competency of particular social workers, they framed this in the context of commitment to their profession rather than a sense of managerial responsibility.

Though some agency workers worked for prolonged periods, managers felt that they had looser ties with the organisation because of their status as agency workers. The looser ties with the workplace employer meant that managers often believed that

disciplinary action was futile either because it was easier to terminate the placement, or because the worker would leave if action was taken. The triangular relationship seems to fundamentally alter the ease of exit as a response to workplace issues for managers. The present legal position of agency workers facilitates their treatment as disposable assets, and the opinion that agency workers knowingly 'sold' their employment rights was commonplace, particularly amongst social work managers.

For the most serious allegations, such as abuse, all managers in City said that they would investigate the allegation themselves and inform the agency of the outcome. This approach was consistent across the authority and applied to agency workers and permanent staff. Managers said that they would inform the standards council and Adults' and Community Services had a list of workers that should not be employed within the authority. Despite the informal practices of the authority in other regards, there is agreement that this list is considered whenever an agency worker is employed.

The consistency at City is not mirrored at Met. Most managers at Met believed that they would discuss with the agency how to proceed. In the main this would mean immediate termination of the contract but an investigation may ensue. Others felt that such serious allegations would automatically mean that the local authority's policy would "kick in", including full investigation and referral to the professional standards body if appropriate. One manager believed that the authority would tell him to just terminate the contract and take no further action. Others felt there would be a partnership approach with the agency:

"A lot of times we may work in partnership with the agency and do a joint

investigation because ultimately it would be no good just getting rid of the member of staff without looking at it, because that member of staff could go to [a neighbouring authority] and do exactly the same. So we do have an expectation that agencies will work with us as well.” (Senior Manager, Met)

When asked whether it would be the agency or the authority that dealt with gross misconduct one manager said:

“My view would be that I am not the direct employer, although I would be the person who has evidence of that gross misconduct. I think it would therefore be my responsibility to ensure that the professional body as well as the agency were aware it happened, so I would be writing to the professional body and informing them. But I would be expecting the agency to lead on the investigation; it would need to go through their disciplinary processes.” (MHT Manager, Met)

The most stark statement was:

“Well it wouldn’t be my responsibility at the end of the day, it would be the agency’s wouldn’t it?” (Day care Manager, Met)

Equally agencies said that it would not be their responsibility:

“I have got no knowledge of the actual problem have I?” (Agency Manager, City)

In case of gross misconduct, most managers were convinced that even if they were to try to follow some sort of disciplinary process that agency workers would escape it by moving on before the investigation was complete. They saw agency status as a way of evading disciplinary and competency action which in many cases made them suspicious of all agency workers.

Given the concerns raised earlier about the vetting of candidates by agencies, the minimal attention paid to the policies by which these workers should be managed seems problematic. The common theme outlined by these managers is that they decide what to do about problems with these workers depending upon their previous experience, personal beliefs and the underlying knowledge that if things get difficult they “do not need to have a long-term problem” because they can just get rid of the agency worker. Given the extreme vulnerability of some client groups with whom social care staff engage, the speed with which incompetent and dangerous staff can be removed is of limited comfort. The Daily Mail (25.2.08) recently reported an incident in a care home where an agency care worker allegedly took out her mobile phone and filmed two elderly residents of a dementia unit fighting rather than attempting to resolve the situation. Doubtless many other similar situations have been reported, and it is unlikely that agency workers are responsible for all of them, however the fact that fewer checks are done, that agency status can be used to evade disciplinary action and that management of these workers is uneven may contribute to placing already vulnerable service users further at risk.

Many managers of care and social workers cited the difficulty in disciplining staff as a problem when employing agency workers. Broadly speaking they cited two distinct

reasons for avoiding disciplinary action with agency workers; firstly that it was costly and time consuming and that terminating the placement was an easier option, secondly that because of the relationship with agency workers it was difficult to take action and that if action was taken they would be likely to leave. While for directly employed staff managers discuss options like disciplinary warnings and retraining, and identify that they are able to access support in making decisions from HR, they do not acknowledge that these options are available for agency workers. The difficulties appear to stem from the desire to have consistent staff working with vulnerable client groups. Dismissal has been noted as a relatively easy option for these workers, however there are often occasions where disciplinary action is contemplated in relation to issues that are not serious enough to consider dismissal, particularly where a worker is otherwise performing well. In such circumstances, managers struggle to balance the seriousness of the offence with the desire to retain the worker. Most managers suggested that if disciplinary action was on the cards then agency workers would leave and find a new job rather than face a disciplinary. This leaves managers with a dilemma, which is particularly acute where there are severe recruitment and retention problems. It appears that managers are more reluctant to dismiss in areas where there are recruitment and retention problems like in social work, however some managers in the day care setting where recruitment and retention problems are not found are also reluctant to dismiss staff for poor performance or minor disciplinary offences. While the ability to discipline and dismiss workers quickly was noted by many managers few had actually asked any agency workers to leave.

Participation at work

There are a variety of ways that employees may be offered the opportunity to participate in decision making at work. These can range from decisions affecting individual workers like decisions about hours of work, duties, holidays and individual grievances to decisions affecting the organisation like corporate strategy. This section is concerned with the ways in which agency workers are included or excluded from direct participation at work.

Within social work, and in some cases for day care staff, supervision is a routine part of case management. It offers workers one to one time with their managers where they are able to discuss individual cases. It also offers a direct employee voice mechanism. All the managers that offered supervision to permanent staff also offered it to agency workers. This is one area in which agency workers in this environment may find the opportunity to engage with managers.

Exclusion from team meetings and briefings is one area in which the reasons for using agency workers appears to be important. Where managers used agency workers for traditional reasons such as covering vacancies and absence they were included in team meetings and briefings. Where managers used agency workers for strategic reasons, such as care workers in day care centres at Met they were excluded from team meetings and briefings. Managers that excluded agency workers for these meetings said the rationale for doing so was solely financial. All three external agency care workers mentioned exclusion from team meetings as problematic because it meant that they did not have information needed to effectively do their jobs unless a permanent member of

staff remembered to tell them. One said she thought it was a problem because she was not able to be involved in decisions made at team meetings, and on occasions was not even informed of them.

Managers of long-term agency workers were asked whether they offered appraisals. None of them did though social work managers pointed out that workers were able to discuss training and performance issues informally at supervision. As discussed above agency workers were not given access to the disciplinary process in the case of problems at work and this limits their ability to express their point of view and give their side of the story. Like disciplinary procedures, access to grievance procedures was problematic as managers, agencies and workers found it difficult to ascertain which policy belonging to which organisation applies to agency workers. Most managers stated that they hoped that all employees would feel able to discuss a problem with them directly and a few cited examples of agency workers informally raising issues in supervision without the necessity of recourse to the grievance procedure. One manager at City said that an agency worker had attempted to access the grievance procedure after her employment had been terminated. She was refused access to the procedure as she was not an employee (or ex-employee); however she was offered the opportunity to use the corporate complaints policy.

Social work managers noted that agency workers have more say in hours of work, working pattern and time off than their permanent counterparts. The nature of the relationship between the organisation and these workers is such that managers appear reluctant to hold agency social workers to the same standards as permanent staff. The triangular employment relationship appears to give agency workers in a powerful labour

market position the ability to determine their own hours of work, the duration of contracts, to take leave when needed. It seems to offer more limited access to workplace participation.

Management of short-term vs. long-term agency workers

There were a number of differences in the management of short and long-term agency workers that are relevant to discussions of the legal status of agency workers. This section details the manager's and agency's view of the contact between agency workers, the workplace employer and the agency. The following chapter will discuss the perceptions of agency workers themselves.

Short-term agency workers have their most enduring relationship with the agency. It is the agency that spends most time on their recruitment with most workplace managers either looking at profiles or just expecting the agency to send a suitably qualified person. The agency provides access to most training. For example Adecco offers significant web based training for its workers and the internal care agency at City has regular training updates for its staff on health and safety and work related areas. For these workers the agency provides appropriate placements and often identifies potential training. Workplace managers direct these workers for the duration of a placement but because the placements were short-term this interaction was limited. For agency workers that experience successive short-term placements the relationship that they have with the agency is far more enduring than with any workplace despite the fact that

they take instructions from workplace managers. It is the agency that determines the likelihood of their future employment, and on whom they are most dependant. Most of the short-term agency workers that I spoke to, both internal and external, had cultivated relationships with their agency manager to enhance their chances of future placements.

Conversely long-term agency workers often have little contact with their agencies and clearly much more contact with the user organisation. Many of these workers reported joining several agencies in order to maximise chances of finding new work if their placement was due to end, and placed little importance on their relationship with the agency. Some long-term agency workers receive formal interviews before starting work, many receive induction and on-going work related training. All managers of long-term agency workers reported that they were given supervision if it was offered to their permanent colleagues. Agencies reported very little contact with these workers, and suggested that their management was very much down to the user organisation, even where they were employees of the agency. While some agencies offered training for long-term agency workers, or acted as a gateway for them to access training themselves they rarely funded such training unless it was a requirement of the workplace employer.

There are in fact major differences between the level of contact and the relationship between agency workers and their two employers which is heavily influenced by whether their placements are short or long-term. The nature of the triangular relationship is not static; the agency and workplace employer do not play the same role in all cases. Early in a placement the agency is heavily involved in 'selling' workers to the workplace employer, and maintaining contact with the worker to ensure their attendance at interview and their acceptance of the post if offered. Once at the

workplace the agency is far less active. Some workplace managers reported that they had not spoken to the agency after the first week of the placement, and expressed scorn at the idea that the agency cared about how its staff fared in the workplace. A couple of workplace managers said that they spoke to the agency every month or two about how their agency worker was doing.

The passing of time from the start of a placement strengthens the relationship between the agency worker and the workplace, particularly where the placement is expected to be long-term. Over time, where a worker remains in post, the triangular relationship changes as the worker has much more contact with and is much more reliant on the workplace employer than the agency. The primary focus of effort by the agency is on recruitment and placement of workers, clearly the fact that short-term workers required more frequent placements and therefore were more often in contact with the agency adds to the strength of the relationship between the agency and the workers. Conversely some agency workers had been placed in a long-term role some months earlier and agencies reported that the only contact that they had with workers was the submission of timesheets. Workplace managers indicated that they spent very little time with short-term agency workers, but that they felt it was important to build up a rapport with longer term agency workers. Managers in Met's day care setting felt that it was up to agency workers themselves to ensure that good working relationships were built, while other managers felt that it was their responsibility to ensure that agency workers were included as team members.

Overview

Agency workers were found throughout social care within both local authorities. Generally they had little contact with each other, and even when they were located in teams with other agency workers most were not supplied by the same agency. Variations in the management of agency workers existed in many areas across both authorities, not least in the understanding of what an agency worker was. For the most part the agency's role was to recruit agency workers and place them within the local authorities. On the whole, the focus of work for agencies was recruitment of candidates and of organisation in which to place them. The level of contact during placements was limited to time-sheets and pay unless there was an issue raised by managers or workers. On occasions, workers or their managers in user organisation approached the agency for training which was generally provided on request. Most ongoing management of these workers was provided by the user organisation.

The level of induction given to agency workers varied as some were given long bedding in periods and others were expected to 'hit the ground running'. Supervision was given to both agency and permanent workers but some managers noted that they, on occasions, were forced to give additional supervision or support to inexperienced agency staff. Internal training was accessed by agency workers and many but not all, managers offered external training to their agency staff. Managers noted the difficulty in making workers comply with any policies but generally did think that workers should be managed in line with local authority policies. Only two recounted dismissing an agency worker and in the main in spite of some agency workers requiring substantial support they were kept on even where managers alluded to the ease of hiring and firing

agency staff.

There was some consistency in how serious offences at City would be handled and even a register of workers that should not return to work for the authority but there was no consistent view on how serious an offence would have to be to have a worker's name added to that list. Managers at Met did not have a consistent understanding of how allegations of gross misconduct against agency workers should be dealt with. Responses varied from suggesting that the agency should investigate alone or the worker should just be dismissed to saying that the authority's policies would kick in and that the appropriate standards body would be informed by the authority.

City and Met had substantial similarities in their management of agency workers. In both authorities, how workers are treated from interview through to termination is very much at the discretion of the line manager with few exceptions. The lack of training and support for managers appears to have led to this inconsistency and managers were not clear about who was responsible for the staff and whether authority wide policies applied specifically to them. The major difference between these authorities was that within City there was a consistent understanding of how serious misconduct would be dealt with but this was not the case in Met. Met however, had clear management information and a mechanism for limiting employer liability which were not present in City.

Some authors (Kunda 2002, Kirkpatrick and Hoque 2006) have pointed to workers being attracted to agency work as an escape from the bureaucratic rigidities of particularly public sector life. It appears that even where agency workers are used for

traditional rather than strategic reasons the triangular relationship means that they are managed outside the conventions of the typical public sector employment relationship. Managers avoid some of the responsibilities typically associated with managing direct employees. The use of agency workers avoids the long processes by which standard workers are recruited, and the ease with which contracts can be terminated means that managers avoid having lengthy disciplinary problems. These workers are typically excluded from most employer driven participation at the user organisation, and at the time of the research agencies appear not to have participation forums, though two reported having previously having open evenings where staff could come in and discuss any difficulties.

The level of variation in the management of agency workers means these workers may not enter placements with fixed expectations about the treatment that they should expect. The diversity with respect to recruitment, training, management, and participation has implications for the ability of agency workers within one organisation and even one team to share common problems with each other. The fact that their treatment is so different from their permanent colleagues may also undermine any problems being shared with them.

This chapter offered insight into the management of agency workers. It lays out the ways in which their management differs and how much their treatment can vary depending on their individual line manager. The treatment of agency workers by their organisations and line managers is important to understanding how they form expectations of work, and how they come to see problems at work. Managers treating workers as disposable because of their lack of legal rights and their triangular

employment relationship can have a counter-mobilising effect. It can make it difficult for workers to see dissatisfaction at work in terms of injustice because they are working within a different set of expectations to their permanent colleagues. Kelly (1998) notes that ruling groups can legitimise their actions with reference to shared beliefs and conforming to established rules. By treating agency workers differently to permanent staff in terms of recruitment, training, discipline and participation, managers can underline the division between agency workers and permanent workers based on their contractual status. This has two key effects. Firstly it presents a challenge to the ability of agency workers to move from dissatisfaction to injustice as they may not feel that their sense of dissatisfaction is justified, effectively stifling the process of interest recognition. Secondly it obscures the opportunity to act collectively for these workers. The extent of differentiation in treatment based on contractual status can present a challenge to the capacity of workers to take collective action across organisational boundaries, as it creates divisions between workers based on their contractual status which clouds their ability to think collectively and make collective links with others on different types of contracts, or with different parties to the triangular relationship.

The way that these workers are managed by two organisations within the triangular employment relationship, and the lack of clarity over their management also impacts on their ability to mobilise. Responsibility is shared across two organisations, and beyond the contracts between the agency and user, and worker and agency, which are generally silent on matters of management, there is no explicit agreement between the three parties about their respective responsibilities. This can make it difficult for agency workers to attribute any defined interests to a single party to the relationship, or at all. Workers may feel sense of injustice, but struggle to identify either employer as

responsible.

The discussion of the varied management of agency workers and its counter mobilising effect on agency workers provides the basis for discussing the experience of work for agency workers themselves. How agency workers experience work will be discussed in the next chapter.

Agency workers in social care: Management,
experience and access to voice at work.

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Chapter 7 – The experience of temporary agency work in social care

This chapter focuses on how agency workers experience working life within the case study organisations, building on the evidence of how they are managed presented in the last chapter. It highlights the fact that different workers have different experiences of work. Rather than the single face of agency work that is often portrayed as universally precarious employment blighted by low pay, insecurity, poor promotion prospects and without any form of job security this research reveals much greater heterogeneity. This chapter begins with a discussion of what workers see as the advantages and disadvantages of agency work, followed by their views on the availability of training and the level of job security that they experience. The concept of job security is explored to discover what aspects of security are important to different types of agency worker. Job security is broken down to look at labour market, employer, post and placement job security, and the ways in which workers come to see their their jobs or careers as secure is investigated. Following on from this is an analysis of how workers deal with problems at work. This consists of a description of the problems that agency workers reported, including an outline of how they acted or did not act to resolve them. The chapter will then move on to a discussion of how mobilisation theory explains the ability of workers to respond to problems at work and how the ways in which workers act is influenced by the nature and degree of job security that they feel.

Advantages and disadvantages of agency work

Agency workers outlined a variety of advantages and disadvantages of agency work. Forde and Slater (2005) note the voluntary versus involuntary dichotomy in agency work. Others (Kundy et al 2002, Hoque and Kirkpatrick 2006) note the difference between 'free agents' and more 'vulnerable' agency workers, though, as discussed earlier, the mere fact of professional qualification does not protect certain agency workers from marginalisation in terms of training and consultation. Division along voluntary/involuntary lines as well as professionally qualified/not professionally qualified lines may help to explain agency workers perceptions of agency work. This section will consider the experience of the voluntary agency workers in two groups; firstly agency social workers and secondly internal agency care workers. It will then discuss the experience of involuntary agency workers.

Different agency workers, even within the same occupational group, had very different views on the advantages for them of being agency workers. All agency social workers identified the higher rate of pay as an advantage and most also identified some kind of flexibility offered by agency work. Some workers felt that agency work gave them control over their working lives and allowed them to decide which roles they undertook; where they were willing to work and when. It allowed them to take long periods off work if they wished, work a more flexible working week, change specialisms, and be geographically mobile. While agency social workers were well paid they also noted that they had fewer benefits than their permanent counterparts

“Although I think the perception is that agency workers get paid a lot more and

in our hand I suppose we do. But when you take into account all the back office facilities for people employed full time, and the sick pay and the leave, and all the other considerations. I think if you added all of them up and put them next to the amount of money I get, which effectively has none of the advantages of a pension provided or sick pay or leave pay,... I don't think the money I get would actually be that far off what it costs to employ a local authority employee. But that is a decision I made.” (Agency social worker manager, City)

Some agency social workers identified insecurity as a problem with agency work, while others did not see the work as insecure. Many thought that they were looked down upon by permanent colleagues and managers who expected agency social workers to be less good at the job; some said that whether you felt valued as an agency worker depended on the team and the local authority. Some workers noted the difficulty in accessing training but others did not feel that training was a problem. As this indicates, perceptions of the disadvantages associated with agency social work varied substantially between different workers.

Like the IT professionals researched by Stanworth and Druker (2004), professionally qualified workers in my study were attracted to agency work primarily by the premium offered for their skilled labour, but the flexibility of this type of work was also a driver. There is national recognition of the shortage of social workers and the two local authorities in which I conducted research in were both experiencing recruitment and retention difficulties. These were particularly acute within the Children's Services departments.

The second group of voluntary agency workers, are internal agency care workers at City. These workers were exclusively women with caring responsibilities outside of work. These workers compared themselves with their directly employed colleagues and identified that flexibility over when they worked was the key advantage of agency work over permanent jobs for them. Some of the staff working for the internal care agency had fairly short service, but one of my interviewees had been engaged for seven years. Each of these workers had been offered a permanent job in one of the homes they worked in and had decided not to take it. While in many cases the flexibility offered by agency work accrued mainly to the user organisation, the workers also benefited. Work was arranged by the agency in ways that took into account the domestic and caring responsibilities of agency workers. Simultaneously the user organisation was able to cancel or curtail shifts with little notice and to request additional staff at the last minute. In this context both parties benefited from the flexibility because of the way the internal care agency managed shifts and was able to take account of workers' home circumstances when offering work.

Internal agency care workers also noted the many disadvantages of their status compared with their permanent counterparts like lack of sick pay, difficulty gaining NVQ training, less annual leave and, until recently, inability to join the pension scheme. Despite these disadvantages agency work was their preference:

“I think it is best to stop as casual. I think it is better all round. Having said that, I think perhaps when you have done a couple of years for the [internal agency], I think the council ought to recognise you and take you on. We don't have a contract do we or anything? I think that would be nice, to be recognised,

because I think sometimes the council don't and you just work. A lot of people don't know about us; I don't think they realise that we work as hard as we do with the permanent ones in the homes.” (Internal agency care worker, City)

Internal agency care workers were paid at the lowest rate on the same pay scale as their permanent colleagues, so they did not gain the pay benefits of agency work that the social workers enjoyed; however they did appreciate the benefits of being able to have more control over their working hours. Accounts from workers, the internal agency manager and other local authority managers all referred to the flexibility offered to workers by the internal agency and 63% of these workers cited the flexibility over their hours as the main reason for deciding to take casual work. None cited inability to get a permanent job, need for experience or desire for a permanent job at the local authority as a reason for selecting casual work. All the internal agency care workers that responded to the questionnaire identified that the flexibility that their working arrangements offered was a key advantage. Only 16% of these workers said that they would prefer a permanent job. Further investigation at interview suggested that both the internal agency manager and some workers felt that some kind of contractual arrangement other than casual work may be preferable for these workers because it would give them more security. They suggested zero hours contracts or annualised hours contracts would be better, a view echoed by Unison; however they were willing to continue to work in this way because of the flexibility offered. The absence of financial compensation for the lack of non-pay benefits due to being agency workers was of concern to them but they saw the advantages as outweighing the disadvantages.

The six involuntary agency workers that I interviewed were made up of three internal

agency administrative workers, two external agency care workers and one agency social worker. Only two administrative agency workers were actually voluntary agency workers because at that point in their lives it was a convenient choice. For the majority of the workers in these groups it was the only work available to them. These workers were engaged on lower pay with fewer benefits than their permanent counterparts. They did not have access to sick pay and were not paid when they were on annual leave. Rolled up holiday pay (i.e. where the holiday pay workers are entitled to is calculated as a percentage of their hourly wage and added to their standard pay) is still the norm for agency workers despite the ECJ ruling that it does not comply with the Working Time Directive (*Caulfield v Hanson Clay Products Ltd*). For many of these agency workers the disadvantages related to agency work were the same:

“I don't get paid if I'm sick, I can't carry flexi over weeks, I don't get paid holidays, well, I do get paid holidays but it's within the wage to a certain extent. I'm not quite sure how the holiday thing works, it always seemed to me that you only get paid holidays if you work every day in the year and don't take any holidays.” (Internal agency admin, City)

In interview, most of these workers expressed a preference for permanent work. Compared with voluntary agency workers, fewer flexibility related benefits were experienced by these workers. They tended to be employed within the same team in the user organisation for at least three months at a time and work a fairly standard working week. Where agency care workers worked part time it was generally at the behest of the user organisation which did not want to pay them for non-productive time such as attending team meetings:

“Now when they have a meeting here you are not part of it because you are not permanent staff. Or if anything like that comes to the permanent staff, you are agency; you don't have the privilege because you are agency.” (Agency care worker, Met)

This was particularly evident for care staff within Met. The working day was arranged so such workers arrived after the staff meeting had taken place as managers were reluctant to pay them to attend and similarly they were excluded from training days. It shows a clear, if unofficial, separation of management styles for permanent and agency staff.

Two of the internal agency administrative workers did note that there were advantages to agency work in that they were there to do a job and that no-one expected too much of them. They enjoyed working in roles free of organisational bureaucracy. Two of the administrative workers also noted that agency work had helped them to get a job quickly after redundancy; however both still wanted a permanent job. The involuntary agency care workers had been working through an agency for some time and had been unable to make the transition from agency work to permanent work. The questionnaires revealed that internal agency administrative workers were evenly split between being voluntary and involuntary agency workers with some viewing the variety in placements and flexibility over hours as being key advantages that they sought in undertaking this work. Nonetheless, compared with internal agency care workers, internal agency administrative workers were significantly more likely to prefer permanent work to casual or agency roles (Pearson correlation, $p = 0.32$, Sig = 0.05). This may be

associated with the support that internal agency care workers perceive that they receive from their agency manager which is discussed later.

Having noted the differences between different types of voluntary and involuntary agency workers in their perceptions of the advantages/disadvantages of agency work I will turn to look in more detail at their perceptions of training, job security and dealing with problems at work.

Access to training

Training was discussed in relation to the management of agency workers in the preceding chapter. A number of authors (Booth et al 2002, Hoque and Kirkpatrick 2006, Stanworth and Druker 2004) note that it is difficult for agency workers across the occupational spectrum to access training.

Within this study some agency workers were able to access training through their workplace, others through their agency and others independently undertook training to maintain professional accreditation. Many of the latter accessing such training via local authorities or agencies but paying for it themselves. I shall look in turn at care workers, social workers and then administration staff.

Care workers in both authorities (supplied by both internal and external agencies) noted extensive role specific training provided by their agency to maintain their employability. Such workers gave examples of courses that their agencies insisted that they attend.

“We do have refresher courses on moving and handling, meetings regularly, supervisions regularly, and I think that is good.” (Internal agency care worker, City)

Generally the agency provided and paid for the training, however agency workers were not paid for the hours that they attended. Some external agency care workers within Met suggested that they got more training than their permanent counterparts. This was because their agencies provided external training and they were sometimes invited to attend training conducted by the local authority. However they also noted that in some cases they were excluded from full training days as managers did not want to have to pay them and pay for the training. Internal agency care workers mentioned that some training was available to them only once it had been given to all the local authorities permanent members of staff, even when agency workers had a more pressing need for the training. One worker cited the example of training to deal with people with dementia; this training was offered first to all permanent staff and later to agency workers. She said that most permanent staff did not work in care homes housing people with dementia, while many internal agency care workers did frequent shifts in care homes designed for the care of dementia patients. She suggested that it would be better to train the people that routinely worked with people with dementia first and then the remainder of the workforce and felt that it was unfair to base priorities on employment status rather than contact with the affected client group. The use of employment status as a determining factor in arranging training for workers rather than assessing contact with the affected client group has implications for the health and safety of both the workers concerned and their colleagues, and the service users.

For agency social workers and occupational therapists the picture was more mixed. They were invited to attend some workplace training where it was essential to do their job. Some had been offered internal and external training by the local authority, others were specifically excluded due to their agency status, yet others were offered a place but told that they would not be paid for the training hours. Some expressed concern about their ability to meet the training requirements to maintain their professional accreditation due to the demands of their jobs. Some workers had external training funded by their agency but most were self funded.

The four administrative workers interviewed had little to say on training. Within City they were given an induction, however this was limited. Adecco provided their agency administrative workers within Met access to on-line training material. All administrative agency workers were offered job specific training at both authorities, generally in terms of internal social care systems; this mainly consisted of short courses and on the job training. Few workers had received training (except for on the job training) that was specific and necessary to their existing role and none suggested that there were areas in which training was needed.

As a general rule, training for each group consisted of what was necessary to complete their role but did not extend to professional development. Agency social workers were expected to maintain professional accreditation but they would not necessarily be provided with training to assist them. However, they would not automatically be excluded should such training assist them with their role. We also see an interesting development where agencies are aware of the importance of certain qualifications for the provision of service and have taken on a more proactive role than their traditional

one of hands-off labour provider. Purcell et al (2004) note that a selling point of some agencies is the provision of skill development packages and career management, and some agency workers in this study identified the role of their agencies in providing or sourcing training to retain professional status.

Job security

Perhaps the clearest difference between agency and permanent work, other than the complications of two managers and managing organisations, is the difference in the job or employment security of agency jobs compared with permanent or fixed term direct jobs. Chapter 2 discussed the insecurity inherent in agency and casual work. It is by its nature impermanent. The problematic employment status agency and casual work gives, and its accompanying lacuna of employment rights, allows quick hiring and firing decisions.

Traditional conceptions of job (in)security relate to the probability that a worker will cease to work for their current employer, or their perception of the same (Guest 2004). Using this understanding, the contractual arrangement that agency and casual workers have may be particularly problematic. Limited legal protection may mean that these workers can be dismissed with little concern for procedural or substantive fairness. Even the term employer can be very challenging; in the triangular relationship agency workers have it may refer either to the user employer or to the agency. A cessation in work for one is sometimes but not always synonymous with cessation of work for the other as workers move between workplaces and/or agencies. Agency workers themselves varied in who they saw as their employer with many seeing both the agency

and the local authority as employers. Some agency workers may perceive their 'job' to be secure despite the end of one assignment, others may not.

Much of the literature about the contingent workforce in general and in agency workers in particular points to insecurity inherent in non-standard working arrangements. The traditional concept of 'job security' is based upon the assumption of permanent or fixed term direct employment. For agency workers, the perception of job or employment security or insecurity can differ vastly; it is dependant not only on their security in their current employment but also the prospects for future employment. The contractual insecurity may be mediated by the labour market situation of workers or employment arrangements. The traditional definition is too narrow to understand how agency workers perceive their own job security so it is important to look to expand this definition in order to fully understand different types of agency worker and their differing perceptions of job security.

Charles and James (2003), in their investigation of job security, note the complex way in which their interviewees conceptualised job security and job insecurity. They use the concepts of post, employer and labour market security. For agency workers these categories are helpful but the concepts of post security and employer security are both problematic. Post security for temporary agency workers is difficult to conceptualise because of the often transitory nature of agency work. Such workers will be occupying a post within the organisational structure of the local authority that exists on a temporary or permanent basis. Whilst an individual worker's *role* may be 'casual care worker' or 'agency social worker', the *post* that they are occupying may be specific to a particular workplace and shift pattern. Thus while these workers have a defined *role*

that does not change, their *post* may change on a day by day basis. For this group of workers 'placement' security may be the clearer way to understand their perceptions of their own security. That is to say how secure they perceive the placement that they are presently undertaking to be.

Equally, employer security is problematic because of the triangular nature of the employment relationship. It is helpful to divide the concept of employer security into 'agency employer security' and 'user employer security'. This division allows separate consideration of whether agency workers perceive the user organisation or the agency as providing them with job security.

Within this thesis, there are a number of potential comparative dimensions for example between agency workers and permanent workers, workers at City and workers at Met, between different occupational groups; and between the types of agency worker (professional/non professional, internal/external, voluntary/involuntary). There appear throughout this thesis few differences between agency workers based at Met compared with those based at City. Rather, differences emerged based mainly on occupation and type of worker. Some individual workers within occupational groups did have different experiences of work and job security; however this tended to relate more to their individual line manager than the end user organisation that they worked for. I will deal with in turn first internal agency care workers and administrative workers, then external agency care workers and social workers.

There was a dichotomy between internal and external agency workers. Internal agency workers generally only signed up with the local authority agency and saw that agency as

their employer. The external agency workers I interviewed were all on long-term placements; these workers identified with the user organisation rather than the agency. Most had signed up with a number of agencies to give themselves the best chance of getting work before their current placement and most intended to do so again at the end of it.

Of all the agency workers, internal agency care workers within City had the most frequent changes of placement; many changed work location every shift, though some worked on a longer term basis to cover long-term sickness. Whether these workers were legally continuously employed is difficult to judge, though some had worked through the internal care agency for over seven years. They worked varying shift patterns, which were flexible, to meet the needs of the care home that they worked in and their own personal situations. They worked a non-standard week in every sense, with the number of hours worked, the times of shifts and the place of work varying day to day. These workers had all made a positive choice about working in this way. One left a permanent job to take her current role and the others had started to work as agency staff many years earlier because they needed a job and had made a positive choice to remain internal agency workers because it fitted in with their commitments outside of work. Despite the high level of placement insecurity that they experienced, they perceived the lowest level of agency employer insecurity of all the workers interviewed. They were generally confident that they would continue with their agency employer with very little chance of long periods of unemployment despite contractually having no guarantee of work. The experience of these workers was that work was almost continuously available:

“I can’t see how they can do without us because I know how many hours I do a week and we are always in demand so I would have said they couldn’t do without us really.” (Internal agency care worker, City)

Another worker referred to everyone’s jobs being insecure and suggested that her position was really no different to her colleagues on permanent contracts:

“I don’t think that anyone’s job is secure these days but no, I don’t think that I am more likely to lose my job than the girls in the care homes. They will always need us to cover sick and holidays...yeah, I’m sure the work will still be here for us in twelve months time.”(Internal agency care worker, City)

In short, post and contractual insecurity experienced by these workers did not lead to perceptions of agency, employer or labour market insecurity because of the circumstances of their employment. They saw the role they performed as essential to their agency and user employer. They were well aware of the statutory requirements for the minimum staffing of care homes and believed that their services would always be needed to meet those requirements. These workers relied on the internal agency rather than individual posts or care homes, to provide them with job related security. They were very loyal to the internal agency; none of those interviewed said that they would consider working for another agency, and it was the internal agency that they considered to be their employer. In this way, despite their contractual status, they perceived a high degree of agency employer security.

Internal agency administrative workers provide a contrast to internal agency care

workers. The majority of these administrative workers had taken agency work because no other work was available. These workers tended to stay in a single placement for a period of months, with some being in the same placement for up six months. These workers were very aware of placement insecurity; some felt secure up until the end of their current placement but very insecure following it:

“As a casual there isn't really job security as such...I know exactly how long this placement is lasting, I have a month to go and my job is secure until the end of it, but after that I don't know.” (Internal agency admin, City)

For them, the end of a placement meant labour market insecurity. Most of the internal agency administrative workers I interviewed indicated that they had experienced long periods (weeks to months) of no work between placements and the agency managers of administrative staff indicated that there was no guarantee of work with many workers being inactive between placements. Internal agency administrative workers tended to see the internal agency as their employer. They were not allowed to remain in one placement for beyond twenty six weeks and so they were reliant on the internal agency to find them work at the end of that placement. Their links to the workplace employer tended to give them a perception of user employer security for the duration of the placement, but the fact that they were required to change placements after 13 or 26 weeks with no guarantee of another placement being available meant that this security was short lived.

One of these workers provided an interesting contrast to the rest. He did not rely on the agency to provide him with work following the end of a placement, but went to several

agencies. He felt some degree of labour market security because of the level he was working at, suggesting that there were lots of poor quality, poorly paid administrative jobs available and that therefore he was at little risk of being out of work. His case demonstrates that labour market job security can arise not only from possessing valuable and rare skills in a tight labour market, but also from the perception of ready availability of jobs equivalent to the workers existing one, even where this is low paid and low skilled.

The experience of placement insecurity was very different between internal care and administrative agency workers. The high level of placement security experienced by internal agency administrative workers can be contrasted with the very low levels of placement security experienced by internal agency care workers. A newly engaged administrative worker would be confident that they would be working at the same place, for the same hours, for three or six months with little chance of being dismissed. In contrast a care worker could find herself in five different placements across the user employer's care homes throughout the week, any one of which may be cancelled or changed. Internal agency care workers could be sent home from a shift if they were not needed, and they could be cancelled or called up at the last minute; they had little placement security. In contrast, internal agency administrative workers had a great deal of placement security, they were confident that they would work out the remainder of their work placement with the user employer.

They also provide a contrast in terms of user and agency employer security. Internal agency care workers relied on the agency employer to provide them with security; they had an ongoing relationship with the agency and were confident in its ability to provide

them with ongoing work. Internal agency administrative workers were confident that for the duration of the placement they had user employer security (as much as you can for six months anyway). However they were not confident that the agency would find them work at the end of their current placement.

Contractually, the positions of internal administrative and care agency workers were very similar, being engaged on the same terms with the same 'employer', albeit working in different roles and environments. Their employment status was certainly the same; both groups were employed on an 'as and when needed' basis. However their perceptions and experience of employer security were very different. Internal care agency workers perceived that the agency, coupled with the demands of the care homes, offered them a high degree of employer security. In contrast, administrative workers experienced user employer security during a known term placement but were not at all confident that they would remain in work beyond the current thirteen or twenty six week placement. Internal agency administrative workers had a high level of placement security but very low levels of agency and employer security, while in contrast care workers had a low level of placement security and much higher levels of agency employer security.

For external agency workers, post insecurity was synonymous with user employer insecurity as a change of post nearly always meant a change of user employer. The big division here was between professionally qualified workers and those without professional qualifications (primarily care workers).

While all the external agency workers expressed feelings of post, employer and labour

market insecurity, the degree of insecurity they felt depended largely on their line manager and his/her communication with the worker. Some workers were told on a weekly basis about the finance for their jobs and its likely duration, others were given information in monthly supervisions. Some said that their managers had told them that they would be given between one and four weeks notice. Workers who were regularly updated on the likely length of their engagement perceived their positions to be more secure than those that were told that they would be given a number of weeks notice even, where these workers were aware of ongoing recruitment campaigns to fill the posts that they occupied.

Like the internal agency workers discussed earlier, external agency workers were aware of their placement insecurity. All acknowledged that as agency workers, the user organisation could replace them should it wish to. External agency care and administrative workers were concerned about their security in their present placement:

“[My job] is not secure...I am working here but they might decide they don't need me any more and there is nothing I can do about it because I am only agency. But if I am permanent staff my job is secure... I do worry because you have to start from scratch again.” (Agency care worker, Met)

“Because you are agency if people don't like you they are going to bring in someone else, especially if you say there is a problem.” (Agency care worker, Met)

Two of the three external agency care workers said that they were taking agency work

in order to get a permanent job and were concerned about having to prove themselves all over again with a new employer if they were no longer required, as well as the problems associated with finding work. Most internal agency administrative workers and external agency care workers noted the ease with which they could be dismissed and that it could be difficult to find alternative work.

Social workers and occupational therapists were in high demand at the time of the research, though for occupational therapists this situation was changing as NHS trusts were making redundancies. The external agency social workers and occupational therapists interviewed had each assessed their future employability based upon their professional qualifications and the current state of the labour market. Their assessment was generally that there was plentiful work available in their sector and that they would not be out of work for long, most indicated that they could get a new job within a week. Even managers of these workers felt that while placements were not always secure, the state of the labour market meant that work was available:

“[Agency workers] are secure in terms of work. They are not secure in terms of location I don't think, because if my agency worker finished tomorrow she could get a job somewhere else Monday because there is a lot of work out there. So they are secure in terms of work but I don't think they are so secure in terms of where they work.” (Social work Manager, Met)

This concern about the temporary nature of roles was expressed by many agency social workers but few expressed feelings of labour market insecurity.

“I do worry about the transient nature of [agency work] sometimes, but that is counter balanced by the climate at the moment.”(Agency social worker Manager, City)

“I suppose my biggest fear in coming in to agency was that it was temporary in nature and you could be gone at a moments notice, and at the end of the day I have still got the bills to pay and the mortgage to pay. However looking at the market and the demand for agency workers, I thought 'I am not going to be out of work. Even if I get sent on my way one week I can find a job within a few days with the way the market is at the moment.' So I am not concerned I will be out of work and so financially I know there is going to be an income.” (Agency social worker Manager, City)

“If it was to finish tomorrow it wouldn't make any difference. Agency work gives you more options. I have been asked here to be a team manager. I have also had calls from agencies with different positions. Various posts have been offered to me.” (Agency social worker, City)

In fact, the agency consultant I interviewed who provided City with agency social workers said that recruitment for these workers worked backwards from standard practice of the recruitment industry. In general, for other areas of agency work a role was identified and then workers were selected from a pool that may be interested in the role. In the case of social work, if an agency worker became available a number of posts would normally be open to them. This view was backed up by managers at both authorities, who cited the difficulty in recruiting good agency social workers. The

difficulty was normally in identifying workers and not posts, which is a measure of the tightness of the labour market.

For professionally qualified workers, the state of the labour market in both local authorities meant that concerns about job insecurity only related to remaining in the same post or with the same user employer rather than being able to find a job. As it is clear that agency social workers do not rely on the user organisation to provide job security one may expect that they relied on agencies instead. This was not the finding here. Agency workers generally expressed little loyalty to the agencies that found them work and paid them. In the main, when a placement was ending they would register with at least three agencies with a view to finding a new job. Social work agency workers relied on neither the agency nor user organisation to provide them with job security, instead it was their own skills, the tightness of the labour market, and their ability to sign up to multiple agencies gave them a perception of job security. None of the social workers and occupational therapists interviewed were concerned that they would experience long periods of unemployment.

Many agency social workers clearly weighed up the various advantages and disadvantages of agency work and in particular, the insecurity related to being an agency worker. Most saw the insecurity and lack of benefits of agency workers as significant disadvantages. The insecurity in terms of the individual role and employer was, for these skilled professionals, to a very large degree counterbalanced by the perception of security within the wider labour market. For the most part they considered the biggest disadvantages to be the lack of sick pay, pensions and annual leave and saw these as impacting on their level of personal financial security. These

workers were relying on their skills and qualifications as well as tightness in the labour market to ensure their future employability. Rather than seeing job security in the traditional way, they regarded employability as key and conceptualised security in a way that focused on the likelihood of continuing to work within their field and, in many cases, the future likelihood of being able to pay the mortgage and bills. They were primarily interested in occupational and labour market security as opposed to job security that related to a particular employer or role.

It is important to note that the employability assessment of agency social workers and occupational therapists was not just based around their possession of skills but also the level of demand for their skills. One agency occupational therapist provides a case in point in this regard. He was in the process of transferring to permanent work. He thought that there were fewer agency jobs available as a result of funding problems in both the NHS and local authorities and he wanted to be in a secure job. He said that he would have been happy to continue as an agency worker if he had been sure about always finding a new job once a placement ended, however he no longer felt able to be sure that was the case. The premium paid for his labour as an agency worker was attractive to him for as long as he perceived the risk of being unemployed between placements as low. However, as he perceived the labour market to be loosening and the risk of labour market insecurity to be rising, the balance shifted for him and a permanent job became more attractive. For this worker, traditional understandings of job security are not sufficient to understand his actions. His agency placement was as secure as all previous agency placements, however by understanding the differences between role, employer and labour market security it is possible to understand how labour market security can impact upon his selection of employment status.

One agency social worker explicitly acknowledged the difference between agency and permanent work in terms of job security. She suggested that her job was less secure as an agency worker on the whole but that she had more control over the work that she would and would not take. Like the workers studied by Kunda et al (2002) who used agency work to escape the degradation of bureaucratic work, this worker used agency work to regain control over her career. She thought that as a permanent member of staff within City, facing reorganisation, your employment was secure but that your post and salary were not. Her colleagues were concerned about being placed in different teams that they did not like, with work they did not want to undertake. City was in the midst of a major reorganisation following on the heels of an earlier reorganisation that was not completed. Permanent staff were not always aware of their place in the organisation, nor whether it would change in the immediate future. As an agency worker she felt that she did not need to share their concerns as she could move on to a new role very easily.

“They're frightened of the reorganisation. They can potentially be on teams that they don't want to be on, they can be placed in an area they don't want to be in... If I didn't want to go I wouldn't have to. I could find work elsewhere. And I know you could do that with the Council but you have still got to give them four-weeks notice, whereas as an agency worker if they want you to work tomorrow, you can go, can't you?” (Agency social worker, City)

Like managers within Met, she referred to the weaker organisational ties that agency social workers had with the local authorities in which they worked. The impermanence of agency work afforded these workers some degree of 'distance' from the user

organisation in terms of the necessity to buy in to operational strategy and their willingness to put up with unfavourable operational changes. Her view of agency work as escaping the constraints of organisational bureaucracy is consistent with the work of Hoque and Kirkpatrick (2006) and Kunda et al (2002). She articulates using agency work to free her from the constraints of working within a permanent role in the public sector. Whilst acknowledging the insecurity inherent in agency work, this worker felt she had some control over her working life that her colleagues lacked. As such the insecurity she experienced was on her own terms, and fitted in with her priorities.

The division of the concept of job security into placement, employer and labour market security allows the perceptions of agency workers to be understood. The fact that contractually these workers have similar levels of job (in)security belies their diverse perceptions and experiences. When agency workers and job security are discussed the characterisation tends to depict them as vulnerable workers that do not possess any form of job related security. Within this study, administrative and external agency care workers did fit into that category. For those workers, the vision of vulnerability, poor pay, limited legal protection and insecurity that is depicted as the norm for agency work does apply. That is certainly not the case for the other agency workers for whom post insecurity is not always synonymous with other forms of job related security. Internal agency care workers and agency social workers both experienced much higher levels of job related security albeit arising from different factors. Professionally qualified social workers and occupational therapists who had limited role and employer security nonetheless felt secure within the labour market where their skills were in short supply. Internal agency care workers experienced a high level of post insecurity but perceived that they had a high degree of employer security because of the level of demand linked

to statutory staffing requirements and the fact that there were rarely periods when no work was available.

It seems that part of the attraction of agency work for workers in professional roles is that the risk of being out of work associated with 'temping' is much lower. Such workers have little post and employer security but they have the safety net of marketable skills in a tight labour market. A key disadvantage of agency work is generally the financial insecurity that can result from being given very little notice of a placement ending and difficulty in finding a new placement. This disadvantage does not apply to either occupational therapists or social workers in the current labour market climate because they believed that a new job would be easy to find, particularly if they were geographically flexible (which nearly all the social workers that I interviewed were). Paradoxically whilst these workers said that they had chosen agency work and that they believed that they would be able to get a permanent job if they wanted to, nearly all of them said that in the long run they would prefer a permanent job.

Guest (2004) suggests that 'knowledge' workers may be less concerned with job insecurity than lower skilled temporary workers. This does not appear to be the finding from this research for the professionally qualified workers I interviewed. Rather than having less concern for insecurity than lower skilled workers, they conceptualise security and insecurity in a way that gives them confidence in their long-term work prospects. They take a wider view of security based on the prospect of remaining employed within their profession. It is employability rather than a narrow 'role based' job security that appears to be how these workers understand the security of work. As such, they have valuable skills that make them highly employable and they face less

labour market insecurity than workers without professional qualifications. Such workers recognise the necessity of maintaining professional status, and ensuing up to date skills, by accessing appropriate professionally accredited training, because it is their occupational and professional status that offers them labour market job security.

Agency worker typology

Agency workers are a diverse group and the divisions described above are primarily on the basis of their job type. This section moves on to look at broader characteristics of agency workers and how they impact on the reasons for taking agency work and experience of it. To do this I have developed the following categories to capture the diversity of agency workers in my research expatriate agency worker, convenience short-term agency worker, income boosting agency worker, long-term career agency worker, job seeker and 'donkey and misfits'. These categories were developed by coding the reasons that agency workers took agency work and discussed in Chapter 3.

Expatriate agency worker

These workers tended to be from Commonwealth countries or the USA. They tended to be young (twenty to forty years old) and had no dependants. In general, they had taken agency work because the agencies assisted them in gaining their visa or because they wanted to be able to take long breaks to return on leave to their country of origin, something that they did not think was possible as a permanent member of staff. Others intended to work in the UK for a fixed period of time before returning home and did not see permanent jobs as an option because of the level of commitment required. These

workers tended to see agency work as an ideal way of working in the UK for a period of time, few intended to stay in the UK long-term and so the impermanence of agency work tended not to count as a particular disadvantage for them.

For them, agencies were used to facilitate work permits and to get recognition for their overseas qualifications. They felt that agencies were the most straightforward and cost effective route for arranging this. Agencies had experience of assisting workers with work permit and professional exemption and often picked up the bill for doing so if workers committed to a period of agency work with them.

Convenience short-term agency worker

Some workers had chosen agency work because it was convenient for them at the time. Few of these workers intended to stay agency workers for very long periods; rather agency work was convenient for them at this particular point in their life. This group was diverse in terms of age, gender, race, marital status, and level of qualification. Excepting 'income boosting agency workers' detailed below, these workers tended to be early on in their careers, some had young children, but most did not have dependants.

The diversity of characteristics linked to their diverse reasons for agency work being convenient, from individuals needing more money and seeing agency work as the way of getting it, to workers looking to pursue a different career path and using agency work to maintain their professional qualifications and income while making those changes. Some pointed to their personal circumstances changing which precipitated a move to agency work, others just found it convenient at the time. When asked why they had decided to become agency workers many said it was because of the flexibility:

“Flexibility for the most part, being able to come and go as I pleased. If I got tired of an assignment I could leave without feeling obligated. I didn't want to feel a sense of duty to stay. Also agency workers tend to get paid more than permanent staff, and benefits aren't as much of an issue to me” (Agency social worker, Met)

For some workers, agency work was a lifestyle choice because it offers the option to take time out as and when required:

“[As an agency worker] you've got more freedom...I mean I work the same hours as everybody else but if I wanted to take three months off I could. I might not have a place to come back to here but if I was in the council I would have to hand in my notice and leave for 3 months. It just seems a little bit more official when you've got a permanent contract doesn't it?” (Agency assistant social work, City)

Another had taken agency work because he had set up his own business; he could fit it in during slow periods and in doing so keep up his social work registration. Some were using temping to explore careers that they thought may be of interest, for example one agency care worker was thinking of care or social work for her career and decided agency work was a low commitment way of finding out whether she liked it. Another had taken her first 'permanent' social work job with a Young Offenders Team and had hated the team and the work. She decided to resign and also decided that she did not want to take another permanent job in case she also did not like the new one. Instead

she decided that agency work would allow her to experience a few different areas of social work without her CV looking fragmented and uncommitted. She thought that as a permanent worker, frequent changes of employer would be a problem but as an agency worker it was expected. At the time of the research, she had elected to join Met as a permanent member of staff because she had found a team she enjoyed working with, it was convenient for child care and she felt that she wanted the stability of a permanent role with its benefits.

Agency work has been seen as a bridge to permanent employment, with many authors (Purcell et al 2004, Gray 2002) noting that it is increasingly difficult for some job seekers to access direct employment opportunities, rather they are pushed to seek jobs through an agency in order to attempt to access permanent work with an employer of their choice. Forde and Slater (2005) note the use of agency contracts to test workers before offering permanent employment. In a similar way workers may use agency work to explore not just different areas of social work but also different employers. Local authorities in tight labour markets may be pushed to use agency workers who are then able to test them out as prospective permanent employers. In this way the use of agency workers may provide a bridge to the recruitment of permanent staff in areas of skill shortage.

Other workers said that they would have been happy to take roles on a permanent basis if the local authority was willing to allow them to work part time. Many agency workers worked three or four days a week and said that local authorities would only allow permanent staff to work full time or half-time. The rigid and bureaucratic way in which work in the public sector was organised was set against the flexibility that agency

work offered these workers. For many workers flexibility over hours of work, location of work, specialism, holidays and duration of placements were critical to the decision to be agency workers at a particular point in their lives that they were at. In response to this finding Met enhanced its flexible working policy for permanent staff, introduced a policy of team swapping to gain more varied experience for new and established social workers that requested a change of specialism and enhanced opportunities for part year working.

Income boosting agency worker

This group was made up primarily of very experienced individuals who had spent the vast majority of their careers as local authority social workers. These agency workers referred to their stint as an agency worker as a career break or limited period away from local authority work:

“Effectively it was a short-term decision to take 3 to 5 years out in an agency, or through an agency, earn some money, pay off debts, put my family back on an even keel in order that we might be able to afford to do what other families living around us seem to be able to afford to do. Then at some point after that five years have another look at it and think about coming back into a local authority. That was a five year plan to try and get things sorted.” (Agency social worker manager, City)

They saw their current position as lasting a finite period during which they would earn more money. Some rationalised this period as the part of their careers where they put themselves first, rather than the local authority and their client group. Some felt deeply

uncomfortable about their decision to be agency workers; two said that it made them feel 'dirty'. These workers saw permanent roles as superior to agency work in general, even accounting for the difference in pay, but for a variety of reasons needed or wanted additional money at that time in their lives.

“I would rather have the security of working in a local authority but at the moment I need to try and make hay while the sun shines. It might sound quite mercenary of me but I have worked for local authorities long enough and not got a great deal out of it personally. When you give such a lot of yourself you need to get something out at some point. So I can't really see massive advantages, the principal thing for me is money and that is the over-riding consideration. It wasn't because of flexible hours or anything like that it was just I need more money and this was the best way of going about it.” (Agency social worker manager, City)

One income boosting agency worker I interviewed was about to return to permanent work because he had found a team he liked working for and he had been able to secure funding for professional development by becoming permanent. It had always been his intention to return to permanent local authority work but he did note the difficulty in doing so because of the drop in wage.

long-term career agency worker

These workers enjoyed being temporary agency workers. They tended to have significant experience as agency workers and/or intended to remain agency workers. There was variation in age, marital status, dependants and whether these workers were

the main breadwinner. Most career agency workers were women with children and raised them either with their partner or as a single parent, and many were the main breadwinner. This group of workers was made up of both social workers and internal agency care workers. Some of these workers had started out as convenience agency workers but had enjoyed the way of working enough to decide to make a career of it. One started out fifteen years earlier as an agency worker because she knew she would be moving around:

“Because of my husband's job and we moved, I didn't want to take a permanent position as I knew we were moving and it wasn't fair, so I went with an agency.” (Agency social worker Met)

But she had remained an agency social worker because of the various advantages to her including the pay and flexibility over her hours of work. The reasons for their decisions to be career agency workers were varied but they tended to enjoy the variety of work and workplaces.

“I have been an agency social worker for fifteen years now, I like it because it allows me to live in different parts of the UK, I stick a pin in the map and call the agency and tell them that I want to work there and they find me a job.” (Agency social worker, Met)

Some enjoyed the convenience of being able to take long periods of leave, while others enjoyed the flexibility that agency work offered over their working hours.

“When my children were ill I used to have to lie and say I wasn't well. And I used to think 'I am supposed to be a social worker and you trust me to go out there and look after other people's children. How can you expect me to leave my children in a state while I go and see someone else's child?' With agency work I don't have to go to work; if I don't go in I don't get paid. I like the flexibility, it suits me.” (Agency social worker, City)

This worker had substantial experience as an agency worker with now adult children but preferred to remain an agency worker. She spent ten years with her previous user organisation as an agency worker, seeing many permanent colleagues come and go, underlining the fact that in some cases agency workers can be long serving members of staff.

For the internal agency care workers in this group the primary benefit appears to be the flexibility over working time:

“It suits me best [to work for the internal care agency] because ... we can work our way round our families and I do look after my mum who is eighty so it suits me that does. She has a lot of hospital appointments so obviously if I was permanent in a home it wouldn't be fair to keep asking to swap my shifts and for somebody else cover for me if I have got to take mum hospital, or what have you.” (Internal agency care worker, City)

“It fits in with my daughter, I have a daughter who is ten, and my mother. I lost my father two years ago and since then my boss has been brilliant.” (Internal

agency care worker, City)

These workers used agency work to manage their own work life balance so that they could meet their family commitments. Both of the care workers that I interviewed who fell into this group had dependant children or parents which meant that they perceived particular benefits from the way that the agency assisted them in working around their family commitments. Their agency manager was very conscious of their reasons for working through the agency and kept detailed notes on their commitments outside of work so she could usually offer them work only when it fit in with their home lives. Care workers tended to work varied shift patterns, there was a mutual flexibility in their work and both the manager and workers noted the flexibility was beneficial for both parties. This meant that workers could and did work in ways that fit in with their home lives; they perceived that a permanent job could not offer this level of flexibility and were thus content to remain agency workers. Both of these workers had been offered permanent jobs by care homes and both had declined them, despite them offering additional holidays and sick pay because they wanted to continue to work flexibly.

In addition to factors pulling career agency workers towards agency work, some workers cited reasons that they did not want to take permanent jobs. One worker referred to the fact that as an agency worker she did not have to buy in to the corporate culture. She had reservations about the local authority and in particular the way she felt it treated service users and employees. She felt that as an agency worker she was somewhat removed from that but that as an employee she would have to agree with their position:

“If I was working for the council I feel that I would have to agree with some of the things that they said and I wouldn't agree with them really. It's hard to explain really. You want to work for somebody because you agree with what they say and the direction in which they are going... [as an agency worker] you can stay a little bit more detached, it's not less commitment but it's less involved with all the protocols and the way things are moving forward.” (Agency assistant social worker, City)

Job seeker

This group just wanted a job. They took agency work involuntarily because it was the best or only work available at the time:

“It is the easiest way to get a job nowadays because you can't get a direct job. You have to start work through an agency and then from there you look for a permanent job.” (Agency care worker, Met)

These workers most consistently expressed using agency work as a bridge to permanent employment. Büchtemann and Quack (1989) have suggested that atypical work can be viewed as either a bridge to 'secure' employment or a trap in which workers are caught. There is certainly some evidence that involuntary agency workers within this study felt that they were trapped in agency work, particularly those administrative and care workers that were looking for permanent roles but had been unable to access them, even through repeated agency placements.

These workers tended to be male, though one of the six was a woman and were all but one were either external care workers or administrative workers. The only social worker who placed herself in this group was a black migrant worker who said it was difficult to get a permanent job; it was her intention to convert to permanent as soon as possible. Like her, most of these workers had taken the agency position with the hope of getting a permanent job either with the user organisation or through gaining experience that would assist them to get a job elsewhere. While most were at the very start of their careers a couple had much more experience.

“Donkeys and misfits”

Other categories were identified by analysis of the experiences of agency workers and the reasons that they offered for taking agency work. This category was identified by a number of workers and managers at interview, and its omission was identified as a gap by the agency workers and managers that I validated the other categories with. The name is taken from an interview with a senior manager at city who referred to agency social workers as “the donkeys and misfits who can't get a proper job”.

These workers were described as the people who are unable to get permanent jobs because they have committed acts of misconduct in the past, are incompetent, or cannot legally work (illegal immigrants or possibly people who have unsatisfactory criminal records with offences that would mean they could not normally get work with children or vulnerable adults). Agency workers referred to these workers as the people that made managers and permanent colleagues look at all agency workers with suspicion. They were of the opinion that fewer agency workers than implied were actually members of this group because they suggested that, once agency workers leave, everything that later

becomes a problem is blamed upon them. However a number of them had worked with 'poor quality' agency workers. Many managers said that they had personal experience with this group of workers as discussed in the previous section. Experiences of this group ranged from workers that were arrested, or those whom managers were asked by police to identify as suspected illegal immigrants, to those that were simply incompetent. Some managers had found out that a previous local authority worker that had been dismissed for gross misconduct had returned some time later as an agency worker. Unsurprisingly none of my interview subjects placed themselves in this group.

Figure 7.1 shows the distribution of the interview subjects amongst the above categories.

Fig 7.1 Agency workers in this study

	Expatriate	Convenience	Income Boosting	Career	Job Seeker
Social worker	4	6	2	4	1
Occupational therapist	-	2	-	-	-
Internal care	-	1	-	2	-
External care	-	1	-	-	2
Admin	-	1	-	-	3

Voluntary versus involuntary agency work

A superficial analysis of this 'typology' of agency workers may suggest that only 'job

seekers' are involuntary agency workers. However I would argue that this is not the case. It is easy to categorise job seeking agency workers as involuntary agency workers and it is equally straight forward to categorise expatriate agency workers as voluntary agency workers. The other groups of agency workers are more difficult to categorise in this binary manner. The choice to become an agency worker for many of the individuals interviewed was a constrained one. The availability of roles that allowed (typically female) workers to balance caring and work obligations often lead to the selection of agency status. For others, the conditions of permanent employment in their most recent role pushed them to leave 'standard' employment and look for an escape in agency work. Some of the factors around the degradation of work and the desire for disengagement from the local authority that Hoque and Kirkpatrick (2006) found were also described by agency workers in this study. For some, agency work was a means of maintaining income while they left social work by retraining for a new career, but for others it was a means of remaining in social work but disconnected from the political considerations of the local authorities, with a quick escape route if the pressure got too much.

Resolving problems at work

A key area in which the triangular employment relationship affects the experience of work is in resolving workplace problems. There seem to be important differences between varied types of agency worker in terms of dealing with problems at work. While some deal with issues by speaking directly to the agency or user organisation about a problem, others exit one or both organisations, and others put up with problems at work. Some of these differences are accounted for in the level of labour market and

employer security agency workers feel. What follows is a discussion of how particular workers dealt with problems at work ranging from grievances that affected them and their colleagues, to general dissatisfaction. This leads into a discussion of the way in which mobilisation theory explains the way that workers act and do not act on problems at work.

This thesis uses the framework of mobilisation theory as outlined by Kelly (1998: 27-38). It is used here to illuminate the ability of these workers to respond to perceived problems at work. For mobilisation to occur workers must have a sense of injustice and perceive that injustice has a collective dimension. For this to happen they must attribute the injustice to a dominant group, generally management, though in the context of a triangular employment relationship this may be management from either organisation, and they must have some form of social identification. Kelly (1998: 38) claims his theory provides a framework for considering the absence of collective action, as well as its presence and it is used here to explain the reasons workers act individually rather than collectively.

Within the triangular employment relationship there are a number of challenges to workers mobilising. This section will first discuss the evidence offered by agency workers of problems at work, followed by the perceptions of agency and workplace managers as to how agency workers deal with problems. It will then consider in turn injustice, attribution, the opportunity to act and social identification including the elements of counter mobilisation that affect how these workers respond to problems at work.

Evidence of how workers respond to problems at work

While most agency workers reported that they had not experienced problems in their present placement, many of them reported dissatisfaction with the conditions of work, and most reported problems with previous placements. This may arise from their unwillingness to report problems to me as a researcher for fear that they would be reported to the organisation and that their employment may be affected. It may also reflect the unwillingness of many agency workers in this study to remain in employment where there was an ongoing workplace problem. Because agency workers have two employers, they have the opportunity to raise problems at work with either, both or neither employer.

Several agency workers had raised issues in their current placement, and many more described leaving previous placements because of problems at work. Two of the thirty agency workers interviewed had been involved in raising informal grievances directly with the user organisation. Three agency workers reported being unhappy with the level of agency mark up to the user organisation, they did so with the intention of changing agencies but remaining with the user organisation. One internal agency care worker raised a grievance via her agency about the treatment of agency, casual and remote workers. Almost half of the agency workers I spoke to reported that in the past they had dealt with problems at work by being moved by the agency or leaving both the agency and the user organisation. What follows is an outline of the issues that workers faced and the ways in which they dealt with them.

Both informal issues were raised individually at the workplace. The first was raised by an external agency care worker at Met. She was unhappy about how she had been

spoken to by a permanent member of staff. She said she raised it with her workplace manager but was quite prepared to move on if it was not resolved properly. Her manager spoke with the other worker who apologised and said she had not meant to cause any upset; everyone was apparently satisfied with the outcome. The manager later met with all the newly recruited agency workers to discuss integrating with the permanent staff more as she felt that some of the communication difficulties were caused by lack of integration. However, she did not include agency workers in her weekly team meetings, daily team briefings or external training.

The second agency worker that raised an issue with her agency was an internal agency care worker at City. She noticed on one of her shifts that agency, casual, and remote staff were being treated very badly in one care home. This treatment included being spoken to in a demeaning manner, being laughed at, being made to wait excessive periods for completion of time sheets, being singled out for unpleasant tasks, being given vague, incomplete and misleading instructions and generally being bullied by the home manager and her management team. The internal agency care worker spoke to her agency colleagues, and to other workers at the home to ascertain whether this treatment was a one off or whether it was a consistent problem. She found that some of her colleagues were extremely distressed by the treatment and that it was a consistent part of working at this home which particularly affected the remote workers who were based in the home but providing domiciliary care in the community. She discovered that the issue had been around at the home for some time before she worked shifts there but thought others were reluctant to raise issues because of the potential consequences:

“I think people were frightened to say anything. You see, rather than somebody

complaining they probably would just say 'I am not going to work there any more, I don't want no more shifts there'." (Internal agency care worker, City)

The agency worker was not a member of a trade union, though she had attempted to join Unison who had told her to join when she got a permanent job. Nonetheless, she asked the Unison representative for advice which was duly given. She raised the issue on behalf of herself and her colleagues with the internal agency manager offering specific examples of what had occurred that she had collected from other internal agency workers and remote workers. Her manager took the matter very seriously and engaged support from the local authority's HR department in pursuing the matter as a collective grievance using the local authority's grievance procedure. Both the agency worker and her manager reported that the issue was resolved quickly. She reported no concerns that she would face any negative repercussions as a result of raising the grievance, though she commented that external agency workers probably would not have felt the same. She had a great deal of faith in her manager's ability to resolve the situation, which was apparently well placed, and in the local authority's policies for dealing with managers that treated staff in this way. At her request she was not placed in that home for six months after the grievance; there was sufficient work elsewhere that she was able to maintain her hours.

Within this study agency workers also looked to the workplace employer to resolve problems in the relationship between themselves and the agency. The limited contact that agency workers had with their agencies meant that problems were generally to do with rate of pay, or promptness of payment. One agency social worker referred to changing agencies in response to problems with pay:

“The reason I left Swift,[was] I was going away on holiday and they hadn't paid me so I went to the bank on Friday and there was no money. So I said where is my money and they said where is your time sheet and I said I sent it, this is after 8 years of working and every week sending in my time sheet. We worked out that there was a postal strike in London which we didn't know about here so they didn't know when they would get the time sheets. I said I have worked for you for eight years and every week you have my time sheet, except when I have been on holiday, why can't you trust me? ...It was just at the time when [my old agency manager] ... said would you like to change agencies, I decided yes I would.” (Agency social worker, City)

Another agency worker complained to his manager that he was unable to access training through his agency, and the intervention of his manager meant that the agency paid for the training he needed. Three agency social workers discussed having changed agencies while remaining with the user organisation because they were dissatisfied with the level of mark-up charged by the agency. In each case the change was negotiated with the workplace manager and changing agencies in each case resulted in the user organisation paying less to the agency, and the worker being paid more:

“one agency worker, we did change her agency to get a better deal for her. I phoned an agency, I suppose the ethics of it were questionable but I phoned up an agency and said, this woman isn't being paid a very good rate of pay, although I was paying quite a lot of money for her, will you work a better deal out for both of us, which this other agency did, paid her more and charged us less.” (Adults

social care Manager, City)

In two of the three cases there were no problems, however one worker had her employment terminated as a result of the change. The agency found out that she was continuing to work for the local authority through a different agency and demanded the payment of a finder's fee. The local authority refused to pay it, and the agency threatened legal action. To avoid conflict the agency worker was dismissed despite the fact that she had sought and received permission to change agencies.

One external agency care worker discussed an issue at work that she had not raised with her manager. She had been working with a service user who was racially abusive towards her. A colleague witnessed the incident, but turned away and left the room, leaving her to deal with the service user who was continuing to use abusive and racist language. She said that she was upset by the incident, mostly because of the lack of support offered by her colleague. I asked her whether she felt that the reaction of her colleague was due to her race or her agency status. She felt that they were somewhat related, stating that most permanent care staff seemed to her to be white and most agency care workers she had worked with were black but that on the whole it was probably due to her being an agency worker. She thought permanent staff saw them as people that were there one day and not the next so they did not want to waste time on them. She suggested that other workers thought that it was unacceptable to treat people differently because of their race but that they were fine with treating people differently because they were agency workers. It was her view that they were all at work to do a job, and that your status as an agency worker should not mean that you are treated with less respect and dignity at work, though in her experience, at times, it had meant that

she was. She had not reported the incident because she didn't think that doing so would change anything.

Her views on the racial profile of agency workers in some parts of Met was supported by a day care centre manager who recognised that agency workers tended to be black. In one centre, the manager said that I would be able to tell which workers were agency because they were all black and mostly men. It should be mentioned here that there was some concern about the future of the day care service; no permanent roles were being advertised or filled. Rather agency workers were appointed and for most vacant roles being male was a genuine occupational requirement as intimate care of male service users was a part of the job. The managers reported that the male agency staff were the successful candidates from an agency recruitment exercise and that the majority of candidates that agencies sent were black. There appeared to be no racial difference between workers within City which was much less ethnically diverse than Met and where nearly all workers irrespective of status were white.

A number of workers had looked to their agency to move them from a previous placement when they had experienced problems at work, suggesting that this would be easier than confronting issues:

“I would have thought that if I had difficulty with a manager I would want to be moved if it came to that.” (Internal agency admin, City)

“I have left jobs twice because of the way the staff treat you” (Agency care worker, Met)

“I don't [raise problems] because there is no point, because I can tell the agency who move me.” (Agency care worker, Met)

Some said that raising an issue would most likely result in you being asked not to return to work:

“I speak from experience; if you have got a problem with where you are actually working at you could not be there tomorrow. You could get a phone call that says for some reason you are out, that is because the organisation has phoned the agency and said, we don't want that person back” (Internal agency administrative worker, City)

“Because you are agency if people don't like you they are going to bring in someone else, especially if you say there is a problem.” (External agency care worker, Met)

These workers suggested that raising a problem could only really be done when leaving a placement and that it would be very unlikely an agency worker would be able to remain in a post having raised a problem with a manager or colleague. Most said if it came down to their word against a permanent workers word, they would lose out and that the outcome would be them leaving, whether they raised the issue or just left straight away. These workers indicated that rather than voice a problem at work or leave the placement they would put up with a problem unless it was making their life really miserable.

While most agency staff did not report having to deal with problems in their current placements they were not generally very optimistic about the level of support they would be likely to receive if problems arose:

“I haven’t come across any situations where I have had to go begging the help of the local authority, and I know I wouldn’t get it as an agency worker. I suppose I am prepared for the reality of it. It would be nice to have a few comfort zones to rely on but you don’t have those as an agency worker.” (Agency social worker Manager, City)

Some thought that they would get help but only because their current manager was good:

“My experience so far is this: if I said that there was a problem [my manager] would take it seriously, but I think that it depends a lot on the local manager” (Agency social worker, City)

Others suggested that if they had a problem with a permanent member of staff, that it would be impossible for the situation to be resolved in their favour:

“I think if there were a clash between an agency worker and permanent worker it would be the agency worker that would go. That isn’t to say that you would be bullied at work, I wouldn’t be bullied. But I think that now I have been doing it a long time, yes I work for money but I work for fun as well. If there was a

serious problem then I would just go.” (Agency social worker, City)

Many workers expressed a reluctance to challenge workplace problems and were not confident that they would receive much support if they did so. This was not always considered a problem by agency workers. Some agency workers at both local authorities expressed the belief that the major role of their agency was to find them work and that they were much less concerned with getting their support whilst they were at work:

“For me the agency’s job is to get me the job in the first place, you find your support elsewhere.” (Agency social worker, City)

“I am not unhappy with my agency but they don’t do an enormous amount for me...they don’t offer anything in terms of support or training...The support they would offer would be well we will find you another job which I suppose is there principal function so that is fine. I think when I signed up to the agency there was a degree of I am going to have to do this on my own so I suppose I was prepared for that. So no I don’t think they would [support me], some agencies I think would purport to support people more, hence the justification for taking that greater amount of money.” (Agency social worker Manager, City)

Such workers were generally voluntary agency social workers, who had selected their agency on the basis of the amount of money the agency skimmed from the hourly rate. They had chosen agencies that offered little in the way of support, training, and involvement as they believed that they would be able to find that elsewhere. Such workers often saw greater advantages to membership of their professional association to

access some of the benefits that their agencies did not offer such as access to training and professional services.

Around half of the professionally qualified workers suggested that they would contact the agency if they experienced a problem at work that they thought the agency could assist with. Most of the administrative and care workers said that if there was a problem at work they would look to the agency for support if they were unable to resolve it themselves, though most said the resolution would be to move on to another placement.

“I think that the agency would care more about the company than me, when you are working at this level you are always replaceable” (Agency care worker, Met)

This was a view echoed primarily by agency care and administrative workers within both local authorities.

Most agency social workers said they may informally challenge a problem at work but that if it was not sorted out on that basis, they would leave because it 'wasn't worth the hassle'. An agency social worker reported a problem with her manager in a previous role. Her manager was behaving in an aggressive and demeaning manner; this problem was shared by her team and they together decided to approach the union and raise a collective grievance. The agency worker reported that the union did not do anything. She subsequently decided that she did not want to work with that manager any more and moved on to a new placement. She noted that the ability to resolve problems at work in this way was a particular benefit of agency work. Despite her status as an agency workers, this worker felt able to pursue a collective resolution to the problem alongside

her colleagues who were permanently employed. This demonstrates that agency workers can identify with their permanent counterparts where issues are shared, and that some agency workers are willing to seek collective resolutions to problems at work.

Despite the willingness of some agency workers to raise problems; either individually or as part of a group, the majority said that they would leave rather than raise issues:

“I would have moved on, it is not worth the hassle, especially like I say in today's market place when you can pick up another job relatively easily” (Agency social worker, City)

“The whole idea of being an agency worker is to use it for your benefit, not to let people take the piss out of you, if there is something that you don't want to deal with you just move on” (Agency social worker, City)

Migrant agency workers and Income boosting agency workers in particular stated that they would just move on rather than tackling issues at the workplace. The view that tackling workplace problems was more hassle than it was worth echoes managers' views on disciplinary processes for agency workers. As discussed in the last chapter, managers suggested that if problems were not resolved informally agency workers would exit (either at management request or of their own volition) rather than face a formal disciplinary.

Most agency social workers believed they would not have access to the normal grievance procedures, and some said even if they did, the length of time these can take

in a local authority meant it would be easier to leave. Many social workers said that they had left organisations when they had had a problem at work or just got 'fed up'. Most of the workers who said that they had left following a problem said that in future they would try to sort it out before doing so again but that they would not hesitate to leave the organisation if it was not resolved. For these workers high levels of labour market job security may mean that the labour market itself provides employment protection of sorts.

Agency workers discussed a variety of ways in which they acted and did not act in relation to dissatisfaction at work. Different workers offered examples of raising issues with their manager at either the workplace or the agency, exiting one organisation with the support of the other or leaving both the agency and the user organisation. This demonstrates that the opportunity for agency workers to act upon problems at work is not entirely absent, but that problem resolution can take different forms to permanent employees. The triangular employment relationship offers some agency workers different opportunities to act, such as ceasing employment with only one party to the relationship rather than having to exit employment altogether.

Managers views on how agency workers respond to problems at work

Agency managers reported that where workers raised problems with them workers normally wanted to be moved rather than addressing them within the placement. In some cases, agency workers did not want to discuss the issue, but rather wanted to move to a new placement. In other cases, workers would inform the agency of the issue but would not want to pursue it other than to move. Agency managers reported that there

were occasions when a succession of agency workers asked to be moved from placements as a result of problems at work; in these cases agency managers generally tried to persuade workers to challenge the issues. They suggested that few workers were willing to do so:

“Yes, it is easier [for them to move on] because it is very easy to turn round and say, oh don’t bother doing anything about it and just leave. But at times I do try to ask them if I can, because future people have got to go in there and it might be something that will affect them as well” (Internal agency administrative Manager, City)

Internal agency managers were willing to move workers where they were experiencing problems at work:

“What we usually do [when a worker has a problem] is arrange for them to come here and meet me on a one to one basis, so we can chat through how they feel and why they feel like that. Then I basically ask them what they want to do and in most cases people don’t want to make it more formal, they really just want to move and I think I have got to respect their decision on that and do that.” (Internal administrative agency Manager, City)

The internal agency manager said that some workers did request that they not be placed in particular homes because of workplace problems but this did not lead to exit from the agency itself. The agency manager for these workers indicated that she had minor

complaints from workers on a weekly basis and where appropriate assisted the workers to resolve them. She suggested that some of the problems were of the 'ruffled feathers' variety where workers perceived that they were being spoken to harshly, ignored or not treated with sufficient respect and that they were minor enough to just want someone to listen to their complaints. She thought that these problems were normally as a result of either the worker themselves or their colleague/manager having a bad day and things being taken the wrong way. Where a worker felt an issue was more serious it would be dealt with by informal discussion with the home manager or through the grievance policy. She said she took her cues from the worker themselves by listening to their view of the problem and asking them what they wanted to do. These workers effectively had access to the local authority processes because their manager acted as their advocate and where relationships were damaged with one care home she provided them with work in the remaining homes in the City. In the cases of the two workers that formally raised issues with her (the one referred to earlier about bullying of agency, casual and remote workers, and the allegation of abuse) one returned to the home in which she had raised the issue the following day and the other did not return to that home for six months.

Internal agency managers felt that they were in a better position to assist their workers than external agencies would be. In particular they felt that their access to local policies and HR support would allow them to raise issues on behalf of their workers without concern for the commercial relationship between the agency and user organisation being damaged. Both external agencies had, in the past, arranged events where workers could meet with the agency to raise any problems. Within Met the agency said that these had occurred when they supplied a large number of workers to the local authority. They said that very few workers attended the event and that no issues had been reported at

Met. Some problems had been raised by agency staff working for other local employers and in one case the agency had taken a view on the seriousness of the allegations and had ceased to supply the individual manager with workers.

Line managers commented on the difficult position that the agency may be in if a worker has an issue with a manager at the user organisation:

“I have been approached by an agency representing a worker where there was an issue with a manager. Agencies won’t play hard ball, they want to keep the customer but they will enter a discussion. If there is an issue the worker will probably bugger off.” (Director, Met)

Other managers felt that agencies were not likely to act in the interest of their workers:

“Agencies are crap, you don’t actually believe that the agencies give a toss about the people they place do you?” (Day care Manager, Met)

An external agency manager and a line manager cited a number of cases where agencies had provided representation or refused to place workers with a manager because of a history of poor treatment of agency workers. One manager identified an agency approaching him about a grievance that a worker had about the termination of her contract. There had been some teething problems in her placement and they were not confident about her competence. The local authority had a funding shortfall toward the end of the financial year and said that all agency workers had to go, so he terminated her contract. She thought that her termination was because they were not happy with

her performance and that she had not been given time to get used to the job but he insisted that it was budgetary. The agency made a complaint on her behalf to the manager's line manager and when he confirmed that it was for budgetary reasons, the agency accepted the explanation. The worker herself took the complaint through the corporate complaints process (not the grievance process because the organisation said she was not entitled to access it as a non-employee) and was, at the time of the interview, waiting for a meeting with elected members.

While agencies did on occasion represent workers to the user organisation, this representation was often limited by the commercial relationship they had. Both managers of the user organisation and agency workers themselves were conscious of the effect that this may have on the ability of the agency to represent to the user organisation.

Mobilisation theory and explaining worker action and inaction

The way in which workers respond to problems at work is a central area of research in industrial relations. How workers define their interests and come to see them as individual, semi collective and collective is critical to understanding how and why workers act in response to problems at work. This thesis uses the framework offered by mobilisation theory to analyse the ways that the triangular employment relationship affects the mobilisation of agency workers, particularly in how they define their interests, to whom they attribute issues, and in their ability to act on their interests.

Agency workers are an example of a group of workers with a triangular employment

relationship. Some of the ways in which the triangular relationship offers agency workers different opportunities to act are shared with other workers in triangular relationships. This study does not support the common portrait of agency workers as victims, a group that is universally vulnerable, silent, and marginalised by their labour market and legal position with no opportunity to act. This was found to be the position of only a minority of agency workers in this study; many more workers found and made use of resources available to them.

This study engages with mobilisation theory to look at the ways in which agency workers come to view dissatisfaction at work in terms of injustice, how they attribute problems and crucially the ways in which different agency workers are able to act upon problems at work.

Injustice

Many agency workers interviewed as part of this study identified that they were currently dissatisfied with some part of being an agency worker; either the conditions under which they worked, their pay or their management. A greater number noted that they had been dissatisfied with one or more of these things in a previous placement. Many of the areas of dissatisfaction were discussed earlier in relation to the perceived disadvantages of agency work. These included dissatisfaction with the low level of pay, exclusion from team meetings and training, being treated unfavourably by colleagues and managers, the lack of sick pay and holiday pay, the high mark up the agency was charging for them, and the lack of financial security, amongst others. A number of agency workers said things like:

“The only thing I don’t like is that there is no holiday pay, no sick pay, and the money is not very good.” (Internal agency administrator, City)

“In my team yes, there is always the joke that agency are crap social workers.” (Agency social worker, City)

“In my last job it did appear that the agency workers were working harder than the permanent workers. We were getting more cases put on us, more difficult cases. Sometimes that is just how it is as an agency worker.” (Agency social worker, Met)

They also identified ways in which they were being treated differently to their permanent colleagues:

“When you are working in a place as an agency worker they look at you as if you are not capable, or somehow worse than them.” (External agency care worker, City)

“They see you as different, they see you as inferior.” (Agency care worker, Met)

Workers offered examples of being dissatisfied with a variety of issues that they had not raised with their employers. Kelly (1998) notes that dissatisfaction itself is not sufficient to make the workers speak out as they may be dissatisfied with a measure, and yet still feel it’s fair or appropriate. For a sense of injustice to arise a worker must also believe that their dissatisfaction is related to something that is wrong or illegitimate.

Kelly states:

“It is not enough for employees to feel aggrieved: they must also feel entitled to their demands and that there is some chance that their situation can be changed by 'collective agency'.” (Kelly 1998: 29)

In many cases the reason that workers did not raise issues with their employer was because they did not see their employer's actions as illegitimate. Workers were unhappy about being excluded from team meetings, briefings and training; however, they did not see this in terms of their employer acting in an illegitimate way. They accepted that their employer was entitled to treat them less favourably than their permanent counterparts because of their status as agency workers. Many saw less favourable treatment, exclusion and precarious employment as an expected part of agency work. Job seeking agency workers in particular viewed lack of holidays, low pay, little support and exclusion as unchangeable and intrinsic to agency work.

Counter mobilising factors are particularly important in blocking the move from dissatisfaction to injustice. These include factors both internal and external to the organisations. Legislation is a factor that is external to the organisation and is important because it shapes both employer and employee perceptions of what is legitimate. The lack of legal support, compounded by different treatment in the workplace by managers and colleagues, was a significant impediment to workers moving from dissatisfaction to injustice. Agency workers themselves considered somewhat less favourable treatment to be legitimate and expected.

Employers can seek to undermine a sense of injustice by arguing that their behaviour is in line with established rules (Kelly 1998). In the case of agency workers this is particularly important because the legislative framework is so uncertain. While permanent employees see the law as legitimising their interests, agency workers have no such legal support.

There is clear evidence from Burchell (1999) and detailed work on the Labour Force Survey that it can be difficult for workers with atypical employment relationships to identify the form of their employment. For this reason a number of authors (Edwards 2006, Arrowsmith 2006) suggest that the Labour Force Survey data seriously underestimates the number of agency workers in the UK labour market. If workers themselves are unsure of the nature of their employment, it is difficult for them to gain an understanding of their legal rights. Even where agency workers are clear about their employment relationship, the law is unable to offer a definitive answer about their employment status. The triangular employment relationship is legally problematic; the court of appeal in *James (2008)* noted that it was impossible to perfectly predict the decision of a tribunal on the employment status of agency workers. This leaves employers and workers in a very difficult position, unable to determine with any certainty whether an individual possesses employee status and the additional employment protection it offers. Within this study most agency workers noted the lack of legal rights inherent in agency work, and some managers referred to agency workers selling their rights.

Legislation is important to employees in two key ways. It offers the opportunity for workers to seek legal redress when their employment rights have been infringed, giving

them the opportunity to act on perceived issues beyond the workplace. It also provides a source of external validation for perceived problems at work. Legal rights underpin a worker's perception of the reasonableness of challenging an employer in relation to a perceived problem at work (Kelly 1998). Where issues are challenged by agency workers the lack of legal support gives employers a counter-mobilising argument.

It is clear from the earlier discussion that legal remedies for agency workers experiencing problems at work are minimal. While they are protected by some employment law in practice it can be difficult to access. In complaints of discrimination, for example, the comparator must be another person working for the same employer. Therefore an agency worker could not compare their treatment with the treatment of either another agency worker employed by a different agency, nor with a direct employee of the user organisation. This will often mean that agency workers struggle to find appropriate comparators and are forced to rely on a hypothetical comparator. In such cases the organisation may argue that the agency worker is treated differently on grounds of agency status rather than any unlawful discrimination.

A further issue for agency workers is the widespread perception that they have chosen to work as in that way, and to accept the contractual insecurity that it entails. It may therefore be difficult for them to challenge workplace issues that they perceive to be as a result of their status as agency workers. Accepting agency work knowing that it offers less security and significantly less legal protection can have the effect of preventing workers from making the move from dissatisfaction to injustice that is an important part of mobilisation theory.

While many agency workers in my study expressed dissatisfaction, few of these workers thought that it was reasonable to raise issues about which they were unhappy. Most of these issues resolved around holiday pay, time off, low pay, or minor incidents with colleagues. All three black external agency care workers raised the issue of race. It was raised tentatively by two of the agency workers, both of whom simply noted that all the agency workers were black and most of the permanent staff were white. They put forward the explanation also offered by the council saying that they realised that they were the most recent members of staff, and that there were no permanent jobs. The third agency worker said she did not know why there seemed to be such a racial division between agency workers and permanent staff.

Attribution

Employees must not only feel a sense of injustice, they must also be able to attribute the injustice to their employer rather than uncontrollable forces or events. Kelly (1998: 30) argues that there are three dimensions to causality; internal v external, stable v unstable and controllable v uncontrollable. The way in which workers attribute grievances affects how they feel about and act upon them. If workers attribute the dissatisfaction that they feel to extraneous factors they are likely to feel impotent to change things.

Like the previous step in mobilisation theory, the triangular relationship has an impact on the ability of agency workers to attribute their sense of injustice to their employer. Rather than identifying one of the parties to the relationship as responsible for problems, agency workers may see the problem as inherent to agency work, or shared between their employers.

The triangular employment relationship offers particular challenges in relation to attributing issues to an employer. The division of employer responsibility across two organisations leads to confusion as to which employer has responsibility for which aspects of the employment relationship. Control and responsibility is divided, and workers expressing dissatisfaction may attribute it to their employment position as agency workers, rather than a particular employer.

Pay is one area where it is challenging for agency workers to attribute the issue to a single employer. The rate of pay that they receive is affected by how much the agency is paid by the workplace employer, and the amount that the agency deducts from that rate as its fee. Many agency workers noted dissatisfaction with pay, but few were aware of the rate charged by the agency or its mark-up. There were three examples in the research of workers acting on the information when they became aware of the fee charged and perceived the agency mark-up as excessive.

Social Identification

Social identification is critical to workers mobilising collectively. Agency workers being treated differently to their permanent colleagues by managers and being viewed as suspicious by permanent colleagues undermines a sense of identification with permanent staff. The fact that few workers worked in teams with other agency workers, and rarely got opportunities to interact with other agency workers limits the opportunity for these workers to socially identify with each other. Even where they are located together there are few cases where workers share both agency and user organisation.

The difficulty agency workers have in identifying with their colleagues presents a challenge to these workers acting collectively in response to workplace problems. It also presents a challenge to these workers unionising.

The only case within this study of agency workers mobilising was amongst internal agency care workers. While these workers rarely had any long-term contact with each other they were brought together by the agency manager for meetings and training, therefore providing some contact. The agency workers involved in bringing the collective grievance were also in the rare position of sharing the same user and agency. The situation in this case was particularly conducive to mobilisation and social identification, and, critically, an individual took on a leadership role and was able to frame the issue in a way that encouraged identification across different types of workers.

If social identification between agency workers is problematic, what about identification with permanent local authority staff? Many agency social workers referred to permanent staff being generally suspicious of agency workers and considering them less capable. A couple said that prior to becoming agency workers, they themselves had often viewed agency social workers in this way. Many workers suggested that they had to overcome this general perception early in a placement:

“I know some agency workers that deserve the reputation. But I know a lot that don't, and we have to work twice as hard and be twice as good because you are seen as suspicious from the outset.” (Agency social worker, City)

Most suggested that once they had worked in the same team for a while their agency status became much less of an issue and they were generally considered just another team member. While this may assist long-term agency workers, people in successive short-term placements rarely spend enough time in a workplace to integrate with the team in this way.

Many agency workers thought that it was legitimate for permanent staff to be suspicious of them, because they felt that some agency workers deserved the reputation. They also suggested that the temporary nature of agency work meant that people didn't remain in post long enough for colleagues to feel it was worth getting to know them. Where workers were in placements for long periods of time many felt they overcame both the distrust and the distance, however in some cases they thought that they never really became as integrated as permanent staff even if their tenure was longer. One career agency worker indicated that she had been in a team at her previous local authority for seven years. In that time she had seen permanent colleagues come and go, but felt that she was not accepted as part of the team in the same way as new permanent staff because she was an agency worker.

The workers with the greatest social identification were internal agency workers. These workers identified with both agency colleagues and permanent staff in similar roles. They suggested that they experienced very similar treatment, conditions of employment and problems at work as their colleagues, and viewed a number of issues as collective. Amongst these issues was the implementation of the single status agreement, which was being widely discussed at the time of the research. The level of social identification for these workers was, in part, due to the fact that all these workers had the same agency

and user employer, and that their pensions, conditions of service and pay were at similar rates to each other and to permanent staff.

Stanworth and Druker (2004) argue that the transient situation of agency workers reduces both job security and the prospect of their identifying with a union representing workers in a user organisation. For some workers, like nurses, teachers and social workers, even where they move user organisations frequently they remain within a single sector and may identify with a single union despite their frequent moves. They may identify with a union or professional association beyond the individual workplace if they feel that membership is transferable on grounds of its relationship to their occupation. This applies in a narrow band of occupations but nonetheless it is relevant where it does apply. BASW is an association premised on representing the social work profession. It appears in this research to be relevant to agency social workers because its base is not at the workplace and because it provides professional services that may be especially useful to agency workers, such as access to training and professional indemnity cover.

Opportunity to act

The opportunity to act refers to a workers' ability to take action in relation to a perceived injustice that they have attributed to their employer. This action may take the form of seeking expression, either individually or by representative voice, by exiting the organisation, or by expressing dissatisfaction through more subtle acts of resistance such as withdrawing good will. Workers within this study referred to issues with their

present and previous employers, and offered wide ranging examples of the ways in which they had acted on perceived injustice in the workplace that they attributed to one of their employers.

Kelly (1998) argued that each person can think and act both individually and collectively. Within this study a number of agency workers have sought both individual and collective resolutions for problems at work. The way in which they sought to address these problems, when they had a developed sense of injustice and had attributed them to something changeable within the control of their employer, was highly dependant on their perception of labour market and employer job security.

Unlike employees within a standard employment relationship with a single employer who have the voice, exit loyalty options laid out by Hirshman (1970), agency workers have a triangular employment relationship which makes the options for them more complex. The various ways agency workers both act and do not act on problems at work has been outlined above. These consist of voicing issues either with the user organisation or the agency and exiting one or both organisations. Voice at work, in terms of articulating views, presenting problems and getting them addressed can be individual or collective. The most obvious form of collective voice is through trade unions, but a variety of potentially non-union collective voice may be available to workers, such as professional associations, works councils and employee forums. Mobilisation theory suggests that such workers could also form groups themselves to engage in collective voice. For agency workers the agency may provide a channel for individual or collective voice (for example one agency refused to send workers to an organisation when several workers complained about sexual harassment from a

manager). Individual voice can be facilitated by organisational policies set up to assist workers with raising problems at work. Some agency workers within this study were confident of their access to such policies whilst others were unaware of them.

Freeman and Medoff (1984) suggested two main reasons that, in the work context, collective rather than individual voice is necessary. In the main, changes in work environment or conditions accrue to the work group and not just the individual; they suggest that collective organisation is important to provide such changes. They further argue that individual workers voicing workplace problems may face termination, while unionised workers may be protected by their trade union.

Exit was a commonly reported response to encountering a workplace problem. For permanent workers exit means ending the employment relationship with their employer. Because agency workers have a triangular employment relationship they can leave one of the parties to the relationship without necessarily leaving their relationship with the other. For agency workers placements are generally precarious, with little long-term security, and therefore they rarely have a long-term and stable 'three way' employment relationship with an agency and user employer. More often these workers have stronger ties with one of their two employers, and where there is an issue with only one party to the relationship they may choose to retain their relationship with the other party. For a significant number of agency workers within this study substitution was used to resolve a problem by only ending the employment relationship with the party with whom there was a problem.

Making use of substitution in this way can significantly reduce the risk of

unemployment normally associated with exit. Workplace employers can continue to provide employment for workers through a different employment agency. Agencies are able to provide workers as well as employers with a fairly fast and easy way of finding new employment; rather than having to endure a rigorous recruitment process agency workers are often placed quickly with a new employer, thus bypassing the bureaucracy. This limits the costs involved in finding new employment that resorting to exit normally bring, and many agency social workers cited this as a particular advantage of agency work. Three agency social workers stated that they had been worried before starting agency work about the insecurity and the potential difficulty in finding a new job when they were used to permanent work. However, since becoming agency workers, this anxiety had gone altogether because of the number of offers of work they had received.

Freeman and Medoff (1984: 9) suggested that “in a world in which workers could find employment at the same wages immediately the market would offer adequate protection for the individual but that is not the world we live in”. Within the case study contexts it is, in fact, exactly the world in which some interviewees live. Agency social workers detailed at length the ready availability of alternative work, particularly where workers were geographically mobile. In contrast most administrative and external agency care workers perceived their labour market positions to be very precarious and did not believe that another job would be immediately available. For these workers the threat of unemployment was such that they would only very rarely consider exit in response to a problem at work.

For some workers agency work changes their perceptions of both the cost of exiting an organisation, and its attractiveness as a resolution to workplace problems. This presents

a significant challenge to engaging these workers in the exercise of collective voice. However, while a number of workers perceived exit as an attractive option in light of problems at work many others were reluctant to consider it. In determining whether workers are likely to exit, voice problems at work or simply put up with them, the nature and level of job related security appears to be important.

Raising problems at work with either the agency or the user organisation was an option for some agency workers, though this was not without risk. Unlike a customer who will normally be able to continue to use a service even after a complaint is made, a worker may suffer continuing adverse consequences of their decision to make a complaint against their employer; the most serious of which is termination of contract. As mentioned above, a colleague of one interviewee was dismissed shortly after making a complaint of sexual harassment. One of the interview subjects had a problem with her agency during her placement; she got agreement from her workplace to change agencies during her placement but when she did so the workplace ended her contract because the first agency wanted to charge the local authority an introduction fee. In both cases workers were dismissed because they raised or tried to resolve a problem at work. Each of the workers in this study who raised a problem at work indicated that they would have terminated their relationship with the party with which they had a problem if it had not been resolved to their satisfaction. They all decided to raise problems in the first instance, and in each case exit from the relationship with the offending party was a secondary option.

Employees with over twelve months service may have the right to claim unfair dismissal as a result of such actions. However, agency workers are unlikely to be

considered employees and are often in placements lasting under twelve months, thus they are unlikely to be sheltered by the law in this way. As mentioned above some workers may feel that the labour market, or their relationship with their particular agency or user employer, offers such security. For those workers who perceive a high degree of labour market job security voicing individual problems at work may be less difficult because of the recourse to exit and the ease with which another job is available. Equally for those workers who perceive a high degree of employer security with the agency, it is the agency's support and their ability to offer work outside the affected workplace may make raising problems at work less difficult. For workers without the benefit of either employer or labour market security there are problems with both the individual voice and exit options.

Earlier in this chapter the differences between types of agency workers were detailed. It defined these workers not only in terms of their occupation, but also in terms of the other differences that they have brought to agency work. Some agency workers in powerful labour market positions view exit as the most appropriate means of acting on workplace grievances. Expatriate agency social workers offered the clearest example of this kind of worker. They tended to have weak links with the agency, and fairly weak links with the workplace employer. When discussing previous issues these workers rarely considered other options. They often expressed their opinions in a similar way to managers, saying that they would not want to put up with a long-term problem. For these workers the opportunity to act by leaving the organisation, in the knowledge that it would not be difficult to find other work, provided an effective means of resolving their workplace problems. Other agency workers with stronger links with key individuals within the workplace or the agency may use leverage with that individual to resolve

problems at work with the other employer. The results here are similar to Drucker and Stanworth (2004) who identify that the agency may be a channel used by agency workers to attempt to access voice in the workplace. The strategies used to achieve this were diverse within this study. Workers across the occupational spectrum reported using contact with either the agency or the user organization to continue in employment while severing ties with the other party. The ability to do so is unique to the triangular employment relationship, and specific to agency work. This was a widespread reaction to problems in previous workplaces, or with previous agencies.

Drucker and Stanworth (2004) identify evidence of agency workers seeking the support of their agency to assist with voice at work. They note the financial interest that the agency has in maintaining the continuity of a placement. They argue that the agency can meet the need for representation felt by agency workers on an individual basis and may preclude the need for other forms of representation. This research points to workers utilising their relationship with the agency to voice problems in some circumstances, however this does not always remove their desire for union representation. While Drucker and Stanworth (2004) argue that workers have no 'independent representative' to mediate with the agency if the agency is the source of the problem, this research identifies that the user employer has taken on this role in some cases, raising issues about pay (or agency markup), holiday entitlements and training. The workers for whom the workplace employer acted as a representative in resolving problems with the agency were generally long term agency social workers who had built up much stronger relationships with the workplace than the agency. It may be that workers within the Drucker and Stanworth (2004) study had much stronger relationships with the agency than the workplace, or were much more reliant on the agency than the workplace to

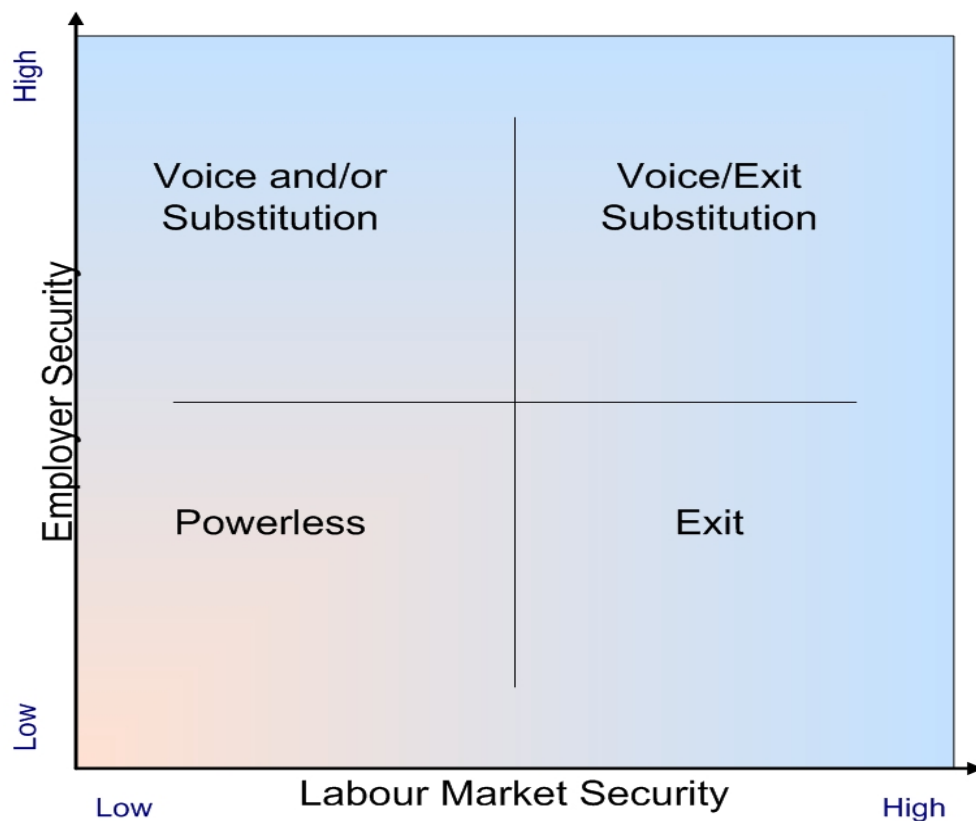
provide them with future work. Within this study short term and lower skilled agency workers were much less likely to ask their workplace employer to act as their representative with the agency than their professionally qualified and long term agency worker counterparts.

Drucker and Stanworth (2004) identify that the occupational and labour market position of agency workers influences the degree to which the agency will nurture relations with its workers. Within this thesis it appears that both the agency and agency workers have a role in determining the nature of the relationship between themselves and the agency. Factors influencing the relationship include the nature of the relationship between the agency and client organisation, the labour market position of workers, the workers commitment to agency worker (see the differences between expatriate agency workers and career agency workers) and the reasons that they have taken agency work. Similarly in this study it became clear that some agency social workers had strong relationships with their workplace employer while others did not. Again this appeared to be the result of a number of factors, but one key factor affecting the relationship was the workers commitment to being an agency social worker. Where workers were career agency social workers their relationships with the workplace appeared strongest, where they were expatriate agency workers or income boosting agency workers the relationship (and their integration with the local authority) appeared the weakest.

Differences between workers unquestionably impact on the need and desire for voice and protection and the way in which workers act in response to problems at work. For example internal agency care workers who feel that they have employer security may wish to be represented to their agency employer on issues affecting their continuing

employment. Agency social workers on the other hand, who feel that their security is provided by their position in the labour market, may be less concerned with being represented to their agency employer. Rather than only being affected by occupation and job security, the desire for protection and voice can be expected to vary by the type of agency worker concerned. For example, expatriate agency workers reported little interest in resolving problems in the workplace, while long-term career agency workers suggested that they would try to resolve workplace issues and only consider leaving after this proved to be unsuccessful. This section will look in more detail at how the differences between categories of agency workers affect their opportunity to act.

Fig 7.2 Agency worker response to problems at work



The major factors that influenced workers' decisions on whether to voice problems at

work or whether to leave the organisation were the degree of labour market job security that they experienced and the degree of employer security, coupled with the strength of their relationship with a key individual at either the agency or workplace.

Workers with little labour market or employer job security reported feeling powerless, they were likely to have little access to voice at work, and in many cases such workers reported that they felt that the outcome of raising problems at work would be their dismissal. These workers also felt unable to exit employment because of their weak labour market position and the risk of unemployment. In the main job seeking agency workers were in this position. They reported that they would be likely to put up with problems at work unless they became particularly severe. They suggested that most of the problems that they had, such as low pay, lack of leave entitlement, lack of job security, and exclusion from team meetings and training, were because they were agency workers. They appeared to see these problems as being unchangeable - fixed and beyond their influence or control. Such workers were very resistant to the idea of voicing problems at work because they indicated that their placement may well be terminated if they caused a problem. They were equally resistant to the idea of exiting the organisation because of the threat of unemployment, and having to start over again with a new employer. These workers made up a small part of this study, and a much larger part of the agency workforce. They fall within the TUC (2008) definition of vulnerable workers because their work is precarious, pay is typically very poor and they are at risk of continuing injustice as a result of the imbalance of power. These workers are the agency workers typically portrayed by the media, and for whom legal regulation offers the best opportunity for improving the level of job security, and their access to redress in the case of injustice at work.

Agency workers with weak labour market security but high employer job security can use voice with one of their employers to resolve the situation with the other, or they can seek the support of one party to the triangular relationship to substitute a problematic party with a new 'employer'. This is primarily a voice response to problems at work because the worker uses voice with the party to the employment relationship with whom they have the greatest relationship capital and the greatest perception of job security to realise changes in their employment situation to resolve workplace problems. Whilst this response incorporates exit from one of the parties to the employment relationship it is not truly an exit response as the triangular relationship continues but the problematic party is replaced by a new 'employer'. Some agency workers are thus able to jettison one party to the relationship with minimal risk of unemployment normally associated with exit.

Workers that favoured this response were most often agency care workers who were career or convenience agency workers, particularly career internal agency care workers who had frequent contact with their agency due to the number of short placements they took and the fact that their agency provided their training. These workers had reported problems to their agency, and to their workplace employer, in the knowledge that their agency would support them to resolve issues. They had used the agency to assist them with resolving problems and to substitute workplace employers where they had problems with a user organisation. For these workers two relationships were key: the relationship between themselves and the individual agency manager, and the relationship between the agency and the workplace. Where the relationship between the agency and the user organisation was commercial it did not offer these workers the

same capacity for representation as where the agency was internal to the organisation. Internal agency care workers felt in a particularly strong position as their agency did not have a commercial relationship with the organisation. It could offer them access to the organisation's personnel policies such as its grievance and harassment policies. The manager in this setting was a key individual who had strong relationships with her agency workers; they were placed in many short placements so she had significant contact with them, and she personally ran training and inductions for them. She encouraged workers to come to her with problems at work, and had tried to arrange for Unison to meet and recruit her agency workers. Internal agency care workers that were career and convenience agency workers were the most likely to be willing to voice issues at work both individually and collectively. The example offered of collective mobilisation in response to bullying of agency and other non-standard workers was facilitated by the supportive management style of the internal agency manager, and the access that she offered workers to the corporate grievance procedure. The perception that she would be supportive also assisted these workers in reporting problems that were not personal grievances such as the allegation of abuse that was made.

Workers with a strong sense of labour market security but little employer security tend to exit very quickly in response to problems. Expatriate agency workers all had a strong sense of labour market security and none of these workers reported high levels of employer job security. These workers all reported that they would leave employment if problems arose at work, and all of these workers reported that they had done so in previous placements. Two had substituted a problematic workplace employer on previous occasions, but all these workers had also exited both workplace and agency when problems arose within a placement. For these workers agency social work was an

instrumental short-term choice. They expressed little loyalty to their agencies, often joining more than one agency to secure future positions. Equally they did not make strong connections at work with their managers and colleagues. While these workers did not always exit both organisations in response to a problem at work, they generally did not see either the agency or the user employer as facilitating exit from the other, they tended to view their labour market position as providing sufficient guarantee of future employment. These workers were the most unlikely to consider a collective resolution to workplace problems, and saw exit from the organisation as a simple and effective solution. The biggest difficulty that these workers experienced with exit was the problem with getting references from previous managers. BASW recognised this difficulty and their Advice and Representation Unit reported this as the primary issue on which agency workers asked for support. A few of these workers noted that BASW was a useful organisation to be a member of for individual reasons because it offered access to training and individual advice and representation.

Agency workers with both a strong sense of employer security and labour market security often suggested that they would voice problems at work with one or both employers and use exit if they were not resolved. In some cases these workers used substitution to resolve problems relating to only one party to the triangular relationship, in other cases they exited from both the agency and user. Most agency social workers that were career agency workers, convenience agency workers or income boosting agency workers fell within this category. These workers indicated that in the first instance they would try to raise the issue with either the agency or workplace, and that they may exit the workplace and/or agency if the problem was not resolved. There was variation in the level of employer labour market security between workers in these

groups. Some of these workers cultivated strong working relationships with the agency or workplace and those that had done so tended to perceive high levels of employer job security with that employer, while others did not see this as necessary. Workers were more likely to use voice or substitution if they had high levels of employer security and they were more likely to use exit when they had lower levels of employer security. Agency social workers with strong links to individuals within their workplace or agency and with high levels of employer security were in the strongest position of all the agency workers within this study, however they still on occasion experienced termination of placement in response to raising problems at work. This demonstrates the opportunity to act for these workers, while present, may not resolve problems at work, and may result in undesirable consequences. The precarious nature of agency work, and the lack of statutory rights for agency workers undermine the effective expression of problems at work because of the ease with which workers can be dismissed and the limited recourse that workers have to challenging termination decisions.

The law is a factor in the mobilisation of agency workers both in terms of the ways in which they define their interests and how far they see those interests as legitimate, and in terms of the ways in which they are able to act upon them. The lack of protection, particularly in relation to unfair dismissal, can obscure the opportunity of some workers to act. Other workers make use of the triangular relationship itself, to sever ties with a problematic employer (either the agency or the user organisation) while retaining the benefits of uninterrupted employment with the other party to the relationship. Some workers are able to use their labour market position to very quickly find new employment opportunities and act by exiting the employment of both the agency and

the user organisation, others use leverage with one of their employers to attempt to resolve problems with the other. While the triangular employment relationship may leave workers with little legally guaranteed employment security, it also offers them opportunities to resolve work related problems in different ways to their permanently employed colleagues.

Agency workers had more options to consider when acting upon problems at work. Unlike employees within a standard employment relationship with a single employer who have the voice, exit loyalty options laid out by Hirshman (1970), agency workers have a triangular employment relationship which makes the options for them more complex. They may seek direct voice with either employer, they may ask one to represent them to the other, they may substitute one or they may exit both. Without protective employment legislation the costs of voicing problems at work for agency workers can be very high. One agency worker in the study had her placement terminated and another referred to a colleague having been dismissed after raising problems at work. These workers were in strong labour market positions and the one that I interviewed had felt she had a strong relationship with her workplace manager. While voicing problems may be a more risky option for agency workers, substitution is an option open to them that is not available to their permanent counterparts. Agency workers who are unhappy with one organisation can replace that party to the triangular employment relationship thereby remaining in employment. The availability of this option reduces the cost of severing the relationship with a problematic employer because it is unlikely to result in unemployment. Kelly (1998) argued that when workers are considering action they weigh up the likelihood that a particular course of action will resolve the situation and the costs and benefits of the action. For many

agency workers the costs of voice may be higher, and the risks of exit lower. This fundamentally alters the way in which workers respond to workplace problems. The findings here suggest that agency workers are generally willing to raise problems only where they are also willing to exit the employment of at least one of their employers if the problems are not resolved.

While agency workers have few legal rights underpinning their ability to act on perceived problems at work, most workers in this study were able to take action. Many reported having done so in their current placement or a previous placement, and some gave examples of friends that had done so. The triangular employment relationship offers an additional dimension to acting on problems at work. It offers workers some opportunity for representation within their employment relationship and it offers the ability to exit from one organisation while retaining ties with the other. Despite this, until agency workers are able to seek legal redress for dismissal arising from raising issues at work it is unlikely that they will be able to move beyond reliance on labour market or employer security to offer them the opportunity to act.

Reporting operational problems

Reporting operational problems at work was a concern for a number of agency workers, particularly where they felt that they were reporting an issue that put them in conflict with a permanent member of staff whose word would be taken ahead of theirs. The only example offered by an agency worker of reporting an operational problem was an internal agency care worker at City alleged that a permanent colleague was abusing a service user. She was very concerned about whether she would be believed.

“It was on a night shift and there were two hours until the home manager arrived in the morning, and all that time I was thinking what shall I do. Because I thought I am going to go to [the internal care agency manager] first because I was scared, she [the alleged abuser] actually worked at the home and has got a rapport with all her colleagues and they think she is great. There were all these things going round in my head so I thought am I going to go in the office and they [her colleagues] are going to think she is nothing like that, she is an excellent worker. So I thought shall I tell [the internal care agency manager] first but I supposed to tell the home manager first, and I thought are they going to believe me? A million things went through my head.” (Internal agency care worker, City)

This worker decided she could not leave the site without telling the home manager who arrived the following morning:

“As I was walking out I thought 'sod it, go in, get it over and done with', and do it. I thought to myself 'if they don't believe me, they don't believe me, I will go to [the internal care agency manager] anyway'. But I am not at work to make friends, I am at work to do my job so I thought 'sod it just do it'... I went into the office and burst into tears. I couldn't get my words out. I was shaking. I did that for a little while and then told them what had happened...They got the manager for the home to come down and interview me. It went ahead like that, with the police and everything, and they just took a statement. But there was a lot of support from there that made me feel, that while I was scared to actually report it, when I did I was glad because I felt 100% backed up and supported. There

were phone calls offering if I wanted any counselling, or if I wanted to speak to anybody; there was a lot of support there, which was nice.” (Agency care worker, City)

This thesis raises a number of concerns about the ability of agency workers to voice problems at work in relation to their employment, however their ability to report problems that affect the organisation and its customers are also important. This issue is clearly quite different from those relating to the treatment of workers themselves. The difficulty that this worker had in expressing what she had seen, and her concerns about whether she would be believed, illustrates the problems that agency workers may have when making complaints about their permanent counterparts. Where agency workers do not have accessible voice channels the impact can be very serious, particularly where abuse is suspected and vulnerable service users may be harmed. This worker felt very confident of support from her agency manager and felt that what she had witnessed was not something that it was possible to ignore. Even so she was worried about the care home manager's ability to objectively deal with concerns raised by an agency worker about a long serving permanent member of staff, and the impact on her relationships with other members of staff.

Difficulties in expressing problems at work apply to agency workers both in respect of individual employment concerns, but also in reporting operational problems. The implications of workers feeling unable to report this kind of problem because they fear that they will not be believed or that they may be dismissed has severe consequences. In social care, where workers are dealing with vulnerable service users, the ramifications of not reporting suspected abuse or concerns over colleague's competency

is particularly dangerous as it impacts on the physical and/or mental wellbeing of those in often powerless positions.

Implications of lack of voice at work

While some agency workers are able to voice problems at work, many more either tolerate issues or choose to leave employment with the agency, the workplace or both. The implications of inability to voice problems at work are particularly severe in a social care environment both in terms of the ability of workers to raise grievances about their treatment, but also to raise operational concerns shared with their employer. One of the internal agency care workers cited in the last chapter reported abuse of a service user by a permanent colleague. She felt confident of the support of her agency and that she would be able to work outside that care home if necessary. External agency care workers are not in the same position and the implications of not feeling able to voice this kind of problem at work are clear.

Freedman and Medoff (1984) and more recently Sverke and Hellgren (2001) have argued that access to union voice reduces the inclination of workers to exit the organisation. In their study Sverke and Hellgren (2001) found that for temporary workers union members reacted to job insecurity by expressing organisational commitment, while non union members were more likely to exit or use voice to cope. This advantage of unionisation for employers may encourage employers facing staff shortages in a tight labour market to negotiate.

The implications of the perception that exit is an attractive option for agency social workers are striking for both the temporary work agency and the user organisation. In an occupational labour market where social workers and occupational therapists are difficult to recruit and retain the lack of voice mechanisms for dealing with problems at work quickly contributes to rapid turnover of agency workers. Temporary work agencies make profit from the mark up they charge on the hourly rate of agency workers. The costs associated with workers exiting employment are the loss of this profit margin and the cost of the time associated with them finding the worker a new placement and carrying out further employment checks. The costs to the user organisation are higher in terms of the continuity of service provision, often to vulnerable service users, and the non-reporting of serious incidents but also in financial terms. The transactional cost of replacing agency workers is high and in social work, a large amount of management time is dedicated to recruiting new agency workers.

The lack of voice at work increases the propensity of workers to exit, and reduces their ability to challenge both personal and operational problems. This presents difficulties for the employing organisations as well as the workers involved. The provision of effective workplace voice for agency workers offers employers benefits, particularly in tight labour markets where they may face particular difficulty in recruiting workers to fill vacant posts.

Overview

Far from there being a 'typical' agency worker with a 'typical' experience of work there

seems to be a great degree of heterogeneity in not only their professional status and job roles but also the reasons for undertaking agency work and their perceptions of job security. The traditional concept of job security is too narrow to account for the varied experience of agency workers, and the ways in which they perceived their own positions to be more or less secure. The concept was divided into labour market, employer, role and placement job security to better reflect the diverse experiences of the research participants. This discussion lead to the presentation of broad types of agency workers, who differ in respect of their orientation to work, the reasons for taking agency work, the likelihood that they will remain agency workers for long periods, and their desire for permanent employment. The six 'types' of agency worker developed are utilised in the discussion of the ways in which agency workers respond to problems at work.

The chapter concludes that the triangular employment relationship has an impact on the ways in which agency workers are able to respond to problems at work. It presents a challenge to the ability of agency workers to move from dissatisfaction to injustice, to attribute problems to one of their employers, to identify with their colleagues and for some workers it obscures the opportunity to act. The nature of the relationship that agency workers have with their dual employers also provides some opportunities to act that are unique to this sort of triangular relationship in terms of partial exit and having one employer provide a limited form of representation to the other. The way in which the triangular employment relationship reduces the costs associated with exit for some workers, and increases the potential risks of voice has implications for agency workers, their employers, and trade unions.

The lack of voice at work can make it difficult for workers to raise individual problems with their employment, but also to raise operational problems at work. This not only increased the likelihood of exit with its associated costs for both employing organisations, but also decreases the likelihood of workers reporting serious incidents at work, which may have substantial effects on the organisation and its customers.

Chapter 8 – Agency worker need for and availability of collective voice

The previous chapter identified that voice is an option for a minority of agency workers within this study. This chapter goes on to look at the implications of this for agency workers and trade unions. It begins with a discussion of the impact of heterogeneity on the desire for voice before moving to a discussion of the factors affecting unionisation. It looks at the individual and collective barriers to unionisation and argues that the factors influencing the decision to be an agency worker and the experience of agency work also affect the unionisation decision. It examines the extent to which agency workers within this study wanted union voice before moving on to review the union response to these workers. It highlights the difficulty in categorising the union response to agency workers when the response varies at political and workplace level. The British Association of Social Workers (BASW) is discussed both in terms of its response to agency workers and their perceptions of it, focusing on the differences between the attitude of agency social workers to unions and to BASW.

Individual decision to unionise

The individual decision to unionise is affected by a variety of factors but it is always framed by the national context and the relationship between the employer and any unions that it recognises. In Chapter 4 I described the relationship between unions and employers in this sector which provides part of the background to the unionisation decision. Within both local authorities there are very long standing consultative arrangements between trade unions and senior managers. Trade unions are invited to

attend corporate inductions to address new staff and are able to buy lists of newly started permanent employees.

Within both City and Met no union is looking to recruit agency workers. The behaviour of the trade unions is certainly one of the most important factors in affecting the unionisation of agency workers in this context. Their lack of interest provides the setting for the individual unionisation decision.

Within my research, problems at work were discussed in two ways. Firstly, workers were asked what kinds of issues they thought trade unions might be able to assist themselves and other agency workers with. Secondly, they were asked about their own problems at work. In general, most agency workers believed that trade unions would be able to assist them with issues that were similar to their permanent colleagues.

Curiously, given the fact that no trade union is recruiting agency workers in City over 1/3 of the internal agency care workers who responded to my questionnaire were Unison members. I was not able to speak to any of these workers so it is difficult to speculate on whether they told the union that they were agency workers when they joined. Other workers had been explicitly rejected from membership when they said they were agency workers. This suggests that these workers joined without making it clear to union reps that they were agency workers, or perhaps that they had not been when they joined. In total nine of the fifty agency workers that returned the questionnaire were Unison members. They offered a variety of reasons for joining which were consistent with reasons given by their permanent colleagues, and echo the findings of Waddington and Whitston (1997) in their large survey of the reasons that

people join trade unions. Most agency workers that were union members cited support if there was a problem at work as their main reason for joining, but other reasons were because 'most other people at work are members', 'belief in the union movement' and because of the 'services offered by the union'.

It is perhaps unsurprising that most agency workers that were union members were internal agency workers for whom membership allowed representation with both the agency and the user organisation. The workers interviewed from this group similarly indicated the greatest interest in union membership, and two of the three had raised a grievance or concern at work.

Of those forty one workers that completed questionnaires and were not members 55.3% had been union members in previous employment. These workers offered a variety of reasons for not currently being union members; many stated that they left membership when they changed jobs, two had not joined because their previous union had been unable to prevent redundancy from their previous jobs, some said they had not been asked to join in the current employment, some were unhappy with the quality of representation on offer, and a couple noted that as an agency worker it was difficult to join a trade union.

The questionnaires sought views on the ability of trade unions to change things at work, whether there were advantages to being a union member, whether it would be a problem to be a union member, how seriously unions were taken by management, how well unions represented workers like themselves, how good unions were at looking after their members at their workplace, how supportive management was of union

membership, and the ability of trade unions to improve their pay. There were no significant differences between agency workers and their permanent counterparts in their views on these. However, agency workers were significantly less likely than permanent staff to know how to contact a workplace union representative ($p < 0.01$, $t = -3.74$) and are significantly less likely to find it easy to join a union at the workplace ($p < 0.01$, $t = 3.82$). When this is coupled with the reasons agency workers offered for non membership of the union it appears that the unions are largely invisible to these workers. They are not approached by union representatives, they are not aware of whom the union representative is, and it is not easy for them as agency workers to become members.

Internal agency care workers perceive that their job related security is primarily provided by the internal care agency. Most workers have worked for the care agency for a prolonged period and see it as their employer. Issues that affect their permanent counterparts (such as single status) also affect them, and two of the three workers that attempted to resolve problems at work were in this group. These workers appear to want to be union members, some have joined and others attempted to join and were rejected. Two of my interviewees (one agency worker and the manager of the internal agency) unsuccessfully attempted to get the union involved with these workers in relation to a specific issue and also to attend a meeting to recruit them into membership. More than any other agency workers internal agency care workers at City have an ongoing relationship with the local authority. Whilst internal agency administrative workers did not report union membership in the questionnaire, they did report attempting to join at interview. Like internal agency care workers they were placed only within the local authority which appears to make them more likely to seek union

voice.

Agency workers expressed a desire to join the union, and some had actively sought to join:

“Well I wanted to [join] when I first came, and I read up the literature and the Unison stuff said we would rather not have [agency] workers.” (Internal administrative agency worker, City)

“they said ‘no we don’t want you’ which I was a little annoyed about” (Internal agency administrative worker, City)

Other workers that were previously union members when in permanent roles experienced a more subtle exclusion:

“I knew the union rep when I was over in [local centre] and we even talked once about the union, because he was going for a job as a full time union person and leaving social work. And we were talking about the meeting he had to go to be voted on this job and I was saying about coming along and providing my support but I couldn’t because I wasn’t in the union. So he knew damn well I wasn’t in the union but he never said to me, ‘well why don’t you join?’ or ‘are you interested in joining?’. He just had the assumption that, as an agency worker, unions were out the window. I was in Unison until I became an agency worker because obviously it is taken out your salary and it just sort of happened and I didn’t put much thought into it, I was in the union and that was it. Like I say, there is this general

feeling you are an agency worker and you don't belong to a union, you are out on your own almost.” (Agency social worker Manager, City)

There was only one union member among the agency workers I interviewed. She was a career agency worker; an Irish social worker who had worked all over the UK for ten years. Agency work gave her the opportunity to be geographically mobile and move to areas of the UK where she wanted to live. Throughout the period of agency work she had been a member of Unison because she believed in the value of trade unions, though she had never required their support at work. She found Unison to be inconvenient and had the practical problems of paying subscription, so she decided to pay yearly. She also found that moving between union branches required perseverance and patience and was the most difficult part of maintaining membership; it was rarely as simple as putting a request in either to her current or new local authority informing them that she had moved areas and requesting for her branch to change. It was the ideological commitment to trade unions rather than any perceived utility or instrumentality that led her decision to join Unison and remain in membership.

Another worker with similar ideological views around the value of trade unions attempted to join before the Unison merger. She was a long-term agency worker who preferred agency work because it accommodated moves with her partner's job. She was told she could not join on a number of occasions across her fifteen year social work career.

“I tried to join NALGO eight years ago and they really couldn't do the mind game about being an agency worker and a union member, they were saying 'where do

you work?' well at the moment I am here but I might move. 'Well we wouldn't know who your shop steward would be and we wouldn't know who this person would be.' In the end it became a complicated issue. So I did try, I tried very hard but they didn't want me, well it felt very much like that, and I am not sure they are geared up to help agency workers really." (Agency social worker, City)

This particular worker had tried to join Unison in three different branches covering three different local authorities before giving up on being a union member. She emphasised her belief in the union movement, stating that she had been a union member in every role before starting to work as a social worker, and had met her husband on the picket lines in the coal miners' dispute. She was very disappointed by Unison's rejection of her based on her status as an agency worker. Despite being excluded from membership she did not attend work on days when strike action was called in relation to the pensions' dispute. For this worker the primary reason that she would have joined was an ideological commitment to the union movement rather than the perception that they would be in a position to assist her with workplace problems, though she believed that unions were in a position to represent agency workers.

Despite the survey reporting the main reason for non membership as being because agency workers had not been asked to join a trade union, there was a widespread perception amongst agency workers in this study that unions were for only permanent workers:

"The reason I am not joining a trade union is because I will join a trade union when I am a permanent member of staff, if anything happens I just talk to my

agency.” (Agency care worker, Met)

Many agency workers felt that unions were not in a position to assist them because unlike their permanently employed colleague they were individually employed on different terms.

“I suppose the problem is it is very much an individual thing, agency work, isn’t it? If you are in a union then it would always be about representing you as individual and I am not sure how geared up unions are to represent you as an individual. To me it feels easier for unions to represent people en masse as a workforce if there are disagreements about their pay or conditions or whatever. I can’t imagine being represented by unions for just little me who might have an individual concern. Although I know they do represent individuals, they do work with individuals, something won’t connect in the head to make that a possibility.” (Agency social worker, City)

This comment suggests that agency workers perceive that they could not be collectively represented on issues that affected all agency workers like access to grievance policies, notice periods or pay for bank holidays. This assumption seemed to underlie the thinking of many agency workers, particularly social workers. It may be that the fact that these workers were very dispersed through the organisation and very few worked in teams containing more than two agency workers impacted in their ability to see issues as collective with a potentially collective resolution. Kelly (1998) argues that within mobilisation theory one role of leaders is to facilitate workers to conceptualise problems at work as collective issues, attributable to their employer with a potentially collective

resolution. It would arguably be more difficult for leaders to manage this process with agency workers; however in the previous chapter two instances were identified where workers did involve themselves in self mobilising groups. In both cases they specifically identified an issue, saw that it affected themselves and colleagues, attributed their treatment to a workplace employer and collectively sought some resolution to the issue. In one case the issue involved both permanent and agency staff. In the other case it involved a mix of different types of agency staff, casual workers and mobile workers that were not permanently based within the workplace. It was an internal agency worker that acted as the leader within the group. There was a pressing workplace problem where permanent staff and managers were bullying or ignoring agency, casual and mobile workers and it may have been easier to coalesce support for resolving that issue than for challenging general conditions of service.

Other agency workers believed that unions were in a position to fight for them irrespective of status:

“If you have a problem they can take up your matter and fight it for you. But if you are not with a trade union, if you have any problem at your workplace they can easily throw you out and nobody will stand up for you, nobody will fight for you. But when you are with a trade union they can fight for you on any level.” (Agency care worker, Met)

This worker had very positive previous experiences of unionism. However, he had not sought to join a union since becoming an agency worker. A couple of agency workers asked me whether they could join a union at the local authority. They said that if they

could join that they would do so but that they thought then they would not be welcome. Others that had previously been union members as permanent workers and intended to return to membership once returning to permanent jobs, they could not see the relevance of trade unions to agency workers.

Generally workers did recognise that there may be some difficulties for unions being able to represent agency workers or that they might not be keen to represent them. Quite a few agency workers, when asked at interview, were interested in joining a trade union but all of them recognised that the unions would be able to assist them with a more limited range of issues than if they were permanent workers.

Agency workers were also aware that there might be some disadvantages to being a union member in terms of their employability:

“I suppose it might depend how my employers might see an agency worker in a union, whether there would be any negative connotations from that. The naïve side of me hopes there wouldn’t be but the more cynical side of me says there might be.” (Agency social worker, City)

This statement of reservation about whether being a unionised agency worker could affect job opportunities came from a professionally qualified worker who was very confident in his ability to find new employment. If such barriers exist to relatively secure agency workers in tight areas of the labour market they may be more significant to workers in insecure jobs.

Some workers felt that on the whole the issues that they would want representation on would be largely the same as their permanent colleagues:

“It would be the same issues; in my opinion here I go through the same things as my colleagues on permanent.”(Agency social worker, City)

Unison representatives at City believed that agency workers would be unwilling to raise issues at work because of their insecure status. However, this has not always proven to be the case; within both case study authorities agency workers recounted experiences of collectively challenging issues at work. These workers were in the minority in the case study and many other agency workers did say that they would find it easier to exit than to raise a problem in the workplace. Nonetheless it is clear that some agency workers participate in collective workplace voice even where the trade union is not involved.

Different types of agency workers had quite different attitudes to unions. Expatriate agency workers generally did not have any knowledge of unions, and if they were aware of workplace unionism they believed that it was for permanent workers and not for them. They had little interest in joining unions. The reluctance of these workers to join unions stemmed from three main factors. The first was the fact that they intended to live in the UK for a finite period only and they saw the union as a long-term commitment. Secondly they had very little knowledge of the unions, none knew who the union representatives were, nor had they been approached with information about becoming members. Thirdly they saw agency work as incompatible with being a union member, though they were of the view that they experienced similar issues to their permanent counterparts and that unions were in a position to help agency workers.

Convenience agency workers were also not very interested in union membership. Some had previous experience of unionisation but did not feel membership would be helpful to them while they were agency workers. Where these workers had considered the idea of being a union member they saw the short-term and individualistic nature of agency work as incompatible with being union members or believed that the union was not in a position to help them.

A couple of agency social workers in this group were generally dissatisfied with the quality of the union representation on offer. One had had problems with the union previously and neither would join again:

“My experience of Unison was that I didn’t get support when I was permanent, I really wasn’t impressed, I dread to think what they are like for agency workers.”
(Agency social worker, City)

Another agency social worker who had previously been part of the Fire Brigade Union (FBU) did not feel that Unison had the power to change things and that as a result it was not really worth joining:

“It’s a waste of money. I believe in trade unions but unfortunately for the trade unions to work they have got to have some sort of clout and there are very few that have.” *(Agency social worker, Met)*

The above two workers had no intention of joining a workplace union whether they

were agency workers or permanent staff. While the former thought agency status would make representation worse, the latter did not think that Unison could do much for its permanent workers or agency workers.

Job seeking and career agency workers did indicate interest in unionising. Most of the job seeking agency workers were interested in joining a union and half had attempted to join and been rejected; others were reluctant to join because financially they felt they could not afford the subscription. These workers saw agency work as a longer term option and some saw it as a gateway to permanent employment with the user organisation. Job seeking agency workers felt that they would benefit from union support if they had a problem at work though few of these workers indicated a willingness to join.

Career agency workers were split between those that were not sure about the role of unions and those that had experience of unions who said that they would happily join a union if given the opportunity. Of the workers that had knowledge or experience of unions, one was a union member and two others had asked to join and been rejected by Unison. When explicitly asked whether they would be interested in joining a union and what the unions could do to encourage them to unionise some career agency workers expressed interest in joining the workplace union:

“I will [join] if they will let me. No one has ever approached me or mentioned it and the thought has never crossed my mind. I wouldn’t mind being in the union but I just don’t know if that is possible because I might be gone next week. I don’t know whether the logistics would allow it but if I was able to join as an

agency worker then yes I would.”(Agency social worker Manager, City)

All of these workers were keen to unionise mainly because their permanent colleagues were union members, they believed in the union movement or because the union could help them if they needed support with a problem at work:

“I think it would just contribute towards my security scale. The feeling of insecurity you get as an agency worker it would help to readdress a little bit of that balance. Knowing you were in the union and had some representation or some rights somewhere down the line should things go wrong. Even if it is not about me, it is about contributing towards other people who are not quite so fortunate as I am... it is just that general feeling of security that there would be somebody else on my side or that would at least hear my side.” (Agency social worker Manager, City)

For these workers the union itself was the biggest barrier to membership because it did not publicise the opportunity to join, it was difficult to identify workplace representatives and most importantly because it rejected these workers from membership because of the nature of their employment as agency workers. Many noted that their issues were similar to their colleagues and that they would need similar support, but they also identified that the union may be able to assist them in fewer areas because they had fewer employment rights than their permanent counterparts. Career agency workers in particular did not view this as particularly problematic and most indicated they were members or would have joined if offered the opportunity.

Income boosting agency workers had all been union members when they had worked permanently for local authorities and they all believed that they would return to union membership on their return to permanent employment:

“[When I go back to permanent work] I wouldn’t give it a second thought I would just go straight back in [to Unison] again. I suppose it is because you are permanent and it feels as though there is an investment there. It is strange really because it is just like a feeling, if you are a permanent worker there then you need to be in the union and you can have solidarity in the workplace. As an agency worker you do feel a bit of an outsider, you are not expected to have an investment in the authority. You are not necessarily expected to stick around very long so I suppose that consideration doesn’t apply.” (Agency social worker Manager, City)

These workers had histories of union membership but felt that their agency status was a major barrier to unionisation. Though they had not contacted the union in their time as agency workers they believed that agency status precluded union membership. Three of the agency social workers in this group identified permanency with commitment and saw agency work as lacking in commitment. They suggested that agency workers had less commitment to their colleagues, teams, service users and the local authority. They either implied or stated that agency workers did not deserve solidarity as they had 'sold out'. They suggested that in their period as agency workers they had essentially traded their rights at work for additional pay and that they did not expect to be treated in the way that they would have as permanent staff, rather they understood that they were a resource that could be disposed of easily:

“I'm not sure if I think that agency workers deserve the same rights as somebody that works here, because if you wanted the job security and those rights then you become a permanent worker.” (Agency social worker, Met)

The implication was that these workers were doing something wrong or underhand by exploiting local authorities and their service users because there was a shortage in the area that they worked in. One agency workers said that his colleagues and managers may look at him and think:

“I am just another agency worker, I am just another leach that is sucking the life blood out of...council tax payers.” (Agency social worker, City)

Some balanced this view with their belief that they were underpaid for the work that they did and that they needed to get something back. Taking time out of local authority service was a way to achieve higher pay for a period before returning to permanent work. They all viewed permanent work as preferable to agency work, one said that he believed that union membership and the sense of worker solidarity that it imbued was one of the things that as an agency worker he would not expect.

Many agency workers noted that the union would not be able to represent them in the same way as their permanent counterparts. Most of these workers did not see this as a disincentive to membership. They were of the view that limited representation was preferable to no representation. They were aware that their status gave them fewer rights on which the union could represent them but many also believed that there were

many common workplace issues that the union could assist with. They suggested that there would be many issues common to agency, casual, temporary and permanent staff. Five agency workers had been explicitly rejected from union membership when attempting to join and many more had contact with workplace union representatives who had stated or implied that union membership was not available to agency workers. The main reason that agency workers were not union members was that they had not been asked to join.

Access to agency workers is problematic for trade unions. Even a trade union seeking to recruit agency workers would have had some difficulty identifying them. While permanent employees can be accessed at induction training and by lists of new starters directly from the local authority, agency workers tend not to have full corporate inductions, and lists of workers are rarely contemporaneously available. As a researcher it was problematic to identify these workers even with access negotiated and organisations supportive to research. The problems of accessing agency workers experienced during the research process were indicative of the larger problems that trade unions would face in identifying, recruiting and representing them.

Trade Union response to agency workers

Whilst initially the research sought to investigate the engagement of unions with agency workers in a context of generally high unionisation, the research sites did not provide this opportunity, since there was no such engagement. This section will briefly outline the background to unions at City and Met. It will go on to outline Heery's (2004) matrix

of union responses to agency workers and seek to identify the ways in which unions in social care at Met and City have responded. It will discuss the reasons offered by trade unions for the lack of engagement with agency workers. It presents a picture of at best, indifference and at worst total exclusion of these agency workers.

The relationship between Unison, GMB and Unite with both local authorities was strong. In both authorities consultative arrangements existed, with full joint consultative committees meeting regularly and subcommittees meeting more frequently to discuss policy and practice. Each authority dealt with a number of agencies to provide a wide range of agency staff, however locally none of the trade unions had relationships with these agencies.

Within City Unison reported 60% average membership density across the board, with 80% density amongst social care staff. GMB and Unite claimed no membership in social care. At Met both Unison and GMB claimed 25% membership density each across the board. Both cases have much higher than average UK union density. However this has not translated into engagement with agency workers at either site.

Chapter 2 pointed to the competing pressures trade unions faced in deciding whether or not to accept agency workers into their constituencies. It briefly pointed to the fact that different unions have different positions on these workers, and other atypical workers. Heery (2004) identifies that the position of trade unions in respect of a variety of groups (temporary employees, BAME workers, women) has moved from exclusion to engagement over time. Here I will define the four positions laid out by Heery (2004), draw on the case study evidence to place unions in the research sites within this

framework, and consider the likely implications of this for the unionisation of agency workers.

The four positions trade unions took in relation to agency workers and agency suppliers, shown in Fig 8.1, were labelled exclusion, replacement, regulation and engagement:

Fig 8.1 Typology of union response to agency workers

		Agency Suppliers	
		Rejection	Inclusion
Agency Workers	Exclusion	Exclusion	Regulation
	Inclusion	Replacement	Engagement

Taken from Heery (2004: 437).

Exclusion, as its name suggests, refers to unions that reject both agencies and agency workers. Typically agencies are not seen as legitimate employers, “they pose a threat to the established system of collective bargaining and seek a portion of economic rent, hitherto shared between employers and the directly employed workforce.” (Heery 2004: 435). Agencies are not the only ones unions denounce from this viewpoint. From

this position unions have referred to agency workers as ‘moonlighters’ and ‘strike breakers’, their needs are not seen as legitimate and they should be excluded from the protection that unions give. They are “condemned for lacking solidarity and conspiring with agencies to undermine trade union organisations: essentially for spurning the obligation of all workers to act collectively and maintain hard-won employment standards.” (Heery 2004: 438). A Unite rep is cited as saying: “The only way to organise them...is to kick them out.” Heery (2004: 438). Clearly exclusion is a position of hostility to both agency workers and the agencies that sell their labour to user organisations.

Following a replacement strategy unions seek to replace agency workers with a less problematic form of labour, generally direct employment of some form. Like exclusion there is a rejection of employment agencies as legitimate employers, however this is coupled with an acceptance that agency workers are a legitimate constituency for the trade union movement. From this viewpoint unions hope to improve the working lives of agency workers by seeking to replace them; in many cases by having individual workers taken on directly by the user organisation.

In contrast regulation refers to unions that seek to negotiate with employment agencies to regulate the terms and conditions of work for agency workers in order to protect their core members from the potential undermining of their conditions by agency staff. It is important to note that regulation involves engagement with agencies not to advance the cause of agency workers but primarily to protect core (directly employed) workers. Whilst some benefits may accrue to agency workers by this method, these are not by any standards the aim of the unions involved; they are excluded from representation by

the unions and their needs are at best subordinate.

Engagement involves representation of agency workers by negotiation with agency suppliers. Both agencies and agency workers are accepted as legitimate. This means that agency workers' needs can be identified and addressed directly with the agency. Unions that engage with agency workers in this way offer them a tailored agenda, rather than treating their needs as homogeneous with those of the directly employed workforce. This differentiation is an important part of this particular approach because it means that agency workers can have separate provision where their needs do not have to be subordinate to permanent staff. Rather than bargaining with the user organisation, representation occurs with the agency.

Heery (2004) suggests that in general for non-standard workers, over time, trade unions have moved from the exclusion position to inclusion or engagement. However of the groups he looked at, which included part time workers and fixed term contractors, exclusion was most prevalent for agency workers. These four types of union interaction with agency workers and agencies are ideals, and it is difficult to place unions into only one group as some display characteristics of more than one. National and local practice may vary and indeed it may be the case that different branches of the same union behave in different ways so one may seem to be excluding agency workers while another is seeking a replacement response. The categories outlined above are ideal types and in reality unions may be seen to be closer to one or the other without fully conforming to the ideal type.

Despite the fact that Unison does not appear to have an ideological opposition to these

workers, the national policy is one of exclusion from workplace organisation. While City behaves in line with this policy the same is not true of Met. I will turn now to the local level practice of Unison at City followed by the position at Met.

Within City there appears to be a policy of exclusion. Managers at City established two casual pools as internal agencies as an alternative to using external agencies but these workers, like external agency workers, are also excluded from membership. In my interviews it was clear that Unison representatives were aware of the staffing problems in social care. This understanding has led to them being aware of the need for agency workers in these roles:

“I think it's a needs must, if you can't get the staff or there isn't the will there we've got to staff [the posts] with someone and if agency workers are there we would expect the authority to use agency workers in those cases. Because if we don't let that happen then our members are going to be under pressure trying to cover vacant posts.” (Unison representative, City)

“I don't mind agency staff, they serve a purpose but you have to be worried when they dictate their own conditions, like here in social work, they get more money than our staff and decide what they will do” (Unison representative, City)

It is clear that both union representatives saw agency workers as outside their constituency. Their references to ‘our staff’ and protecting ‘our members’ by covering vacant posts with agency labour applies to direct employees who are certainly Unison’s foremost concern. Within City Unison appears to see agency workers as an unpleasant

necessity but they do not approve of their long-term use:

“I think our fundamental bottom line is to get people into some real jobs and not see agencies as part of the workforce.” (Unison representative, City)

Agency workers themselves were aware that they were viewed in this way by unions, one commented:

“A lot of people are preferring to go to work for agencies, the unions haven't caught up with that, they don't acknowledge it do they?” (Agency social worker, City)

“[unions] see you as some sort of pariah” (Agency social worker City)

This would suggest that Unison may favour a policy of replacement within City. However they appear equally hostile to both internal and external agency providers. In theory a replacement response should seek to replace agencies with more acceptable labour market intermediaries. The internal agencies are not-for-profit and so do not ‘parasitically’ make gains from the labour exchange. The internal agency's staff are direct reports of the local authority and enjoy some of the benefits that external agency workers do not, like access to the local government pension scheme. Whilst the employment status of internal agency workers is still questionable as they are considered casual workers with no contract of employment and who can experience substantial job insecurity, the fact that there is no labour market intermediary profiting from their employment could make this form of worker more acceptable to the union

movement. Despite this there does not appear to be pressure on the local authority from the trade unions to use internal rather than external agencies and there is very little awareness of the number of agency and casual workers employed. One Unison representative had some awareness of the casual pool. He had offered advice to one worker facing problems but he was not aware of the extent of staffing or how reliant care home managers were on internal and external agency workers. By contrast where some domiciliary home care services were outsourced to the private sector the unions and the local authority agreed that no agency workers could be used by the private sector providers, and indeed there is a contractual term in the outsourcing agreement that explicitly forbids the use of workers that are not directly employed by the service provider.

Unison does appear to apply some pressure for City to replace agency and casual workers with permanent staff where possible. The motivation for this primarily appears to be protection of their permanently employed members rather than any desire to improve the conditions of agency workers; however they also suggested that a permanent or fixed term contract on any basis, be it annual hours or a minimum hours contract, would improve the situation for these staff. Their efforts to encourage the authority to move workers to more secure contracts is hindered by the lack of awareness of the number of agency and casual staff within the authority and the duration of their stay. As discussed in the previous chapter, the local authority itself is unsure of the number of external agency workers so it would be difficult for Unison to have a clear idea of numbers and locations. The same is not true of the internal agency workers employed. Throughout the authority workers placed by the two internal agencies are carefully monitored and the authority is aware of number, length of service, and where

placements are and have been. Unison is not aware of this information, mainly because it rejected invitations by both casual pools to be involved in induction, attend meetings with staff or recruit these workers. It was Unison's belief that within City casual and internal agency workers were converted into temporary members of staff within four weeks. This was most certainly not the case as described in the previous chapter. Nor was it the case that all of these workers wanted to be converted to permanent staff, though most administrative agency workers did. At City Unison was under the erroneous belief that they had an agreement with the authority that ensured that casual workers (including those placed by the internal agency) were not employed on a long-term basis.

Heery (2004) notes that the replacement strategy is often coupled with pressure on the user organisation to equalise the wages of agency and permanent staff to reduce the cost advantages of using agency workers. Here the pressure exerted to make workers permanent is not coupled with pressure on City to equalise the wages of agency workers and permanent workers as a disincentive to the use of agency staff. The only mention of agency workers within consultation discussions is in favour of permanent staff. In short there is some evidence of a replacement strategy in operation, albeit with inadequate information and with a focus on the interests of permanent staff.

Despite the evidence of replacement, Unison locally see their own position as one of exclusion. The stated reasons for excluding agency and casual workers from Unison were twofold. The first was an ideological opposition to agency workers themselves:

“Agency people make good money out of authorities and that's the risk they

take, I don't want to give them a safety net” (Unison representative, City)

The second was more pragmatic:

“We want people with what we would call proper jobs.” (Unison representative, City)

“We have got to get people, haven't we, with some employment rights basically so they can't just be got rid of.” (Unison representative, City)

“I suppose some of the real issues about why we don't actively recruit in that area is because of their vulnerabilities. Now if you're an agency or casual member of staff here on some sort of casual or agency basis of 'there is a job there do it', if you kick up a stink and all rest of it you are very very easily got rid of. And so we don't think it's fair really to put them into that point of pressure... [when they became permanent] we'd come in and see them as legitimately able to take a real part in the trade union..” (Unison representative, City)

The pragmatic position seems to be in two parts. The first relates to the argument that legislation provides the lever for bargaining but also allows people to assert basic rights without fear of reprisal preventing them from doing so. Workers unable or unwilling to assert their rights can presumably, from this position, receive little support from trade unions. The second part of the unions' views is that these workers will either 'keep their heads down' or move on to a new employer in preference to raising an issue at work. In these circumstances it would be difficult and unlikely for these workers to take part in

industrial action and if they are unwilling to tackle even individual problems at work there may be limited potential for recruitment and representation. Of course the two are somewhat linked; bereft of employment protection agency workers may be unable to raise issues for fear of losing their jobs meaning that they either put up with the problem or get a new job.

The notion that agency workers are unable to ‘*legitimately*’ take part in a trade union relates to the view of them as vulnerable workers. This representative argues that to take part in a trade union workers must be able to raise problems at work and to take part in industrial action. During the period of the research there was a national strike over changes to the pension scheme. In addition, locally there were disputes ongoing about parking charges and changes in absence management. The Unison representative suggested that the issues in dispute would not be issues of great interest to agency and casual workers:

“I don't know whether they would address [problems] whilst they're casual, because I think they'd be prepared to ride any sort of problems there if they saw at the end of it they were going to get some temporary or permanent job. I think people are like that, I think they're not in an environment where they want to say it. With a casual I think they're looking at some sort of job that has some degree of security. So I think that all these other issues are peripheral to them.” (Unison representative, City)

This pairing of the fact that they can not take part in union activity with the fact that the issues that the union is addressing are not seen as particularly important to this group of

workers seems to suggest to Unison that they are not a group that would be easily recruited, mobilised or represented. This representative suggested that it would be dishonest to try to recruit agency workers with little to offer them, suggesting that he would be *'selling them air'*. Only one of the four Unison representatives that I interviewed at City thought that Unison could represent agency workers but all acknowledged that at the time of the research they did not.

Whilst it was Unison's position that agency workers would have little interest in the ongoing disputes and would be unable to take industrial action this was not universally the case for agency workers themselves. Most of the agency social workers that mentioned the strike action said that they had decided not to attend work on the days of the strikes in support of their colleagues. Care workers tended to be excluded from the industrial action and administrative workers did not mention the strike action.

At City neither of the other recognised trade unions had membership within social care, however for completeness and because these unions may provide some potential for future representation I will outline their position. Both Unite and GMB were happy to recruit agency workers. GMB had members on only one site and indicated that they had an agreement with management to the effect that any agency workers employed would be paid the same rate as their permanent counterparts. They were approached by one agency worker for membership. Because of the length of time that this worker had been within the organisation they entered into negotiations with management and insisted that he was made a permanently and directly employed member of staff. Once he was permanently employed he became a union member. Their response to these workers was certainly not one of engagement. They expressed distaste towards

agencies and did not bargain with them to achieve better terms and conditions for these workers. Rather they exercised a dual strategy. Simultaneously they negotiated with the local authority to ensure that workers were paid the same as permanent staff to remove the cost advantage of using agency workers and advocated the replacement of agency workers with permanent staff where they were employed on a long-term basis.

Unite's position locally was similar:

“Ideologically unions tend to be against casual labour anyway just because of the lack of rights they have but realistically it is probably going to be a bit difficult to stop just with the amount of agency workers. And until the union movement gets its strength back it is going to be difficult. You try to put pressure on the authority to say to them, get your agency to treat them decently or get rid of the agency. We also look at if they have been there for a period of time getting them made up on the company books with the argument 'well you have got permanent jobs, there do the right thing for these fellas'. Those are the two ways of looking at it.”(Unite representative, City)

In discussion a Unite rep referred to agencies as ‘a pack of bastards basically’. But simultaneously they were ‘dealing with the devil’ with recognition agreements signed nationally with a number of the more reputable agencies and making use of agency staff within their branch office for cleaning. They were organising people within the scope of these agreements as a local branch but not within City. Unite did not have the agreement that GMB did with City that agency workers should have the same rate of pay as their permanent counterparts. Like GMB they had been approached for

membership by a long standing agency worker. He joined Unite and they immediately undertook representation on his behalf. His contract was to be ended but they argued successfully that his long service meant that he was likely to be considered an employee in line with the judgement in *Carmichael (1999)*. Despite the fact that he joined after he knew there was a possibility of his contract ending the union gave him access not only to local representatives but they also took legal advice on his behalf.

Neither GMB nor Unite made separate provision for agency workers, and essentially they both responded with a replacement strategy recognising that the workers were part of a legitimate constituency but not generally dealing with the agencies of staff employed by City. In the cases that they cited this was successful in moving workers from agency to permanent jobs. This strategy was also in line with their strategies for casual and temporary but directly employed staff as they sought to move them to more secure forms of employment, ultimately permanent directly employed roles.

This strategy assumes workers want to move from agency to permanent jobs. In the last chapter the reasons that different types of agency workers had undertaken agency work were discussed. Job seeker agency workers, those workers that had taken agency work because no permanent jobs were available, were in the minority. For most agency workers interviewed taking agency work was a genuine choice based upon their own personal circumstances and preferences rather than one forced on them by the lack of permanent jobs. While most indicated a desire to return to permanent work in the long term, they were not looking to return to permanent work in the near future and representation aimed at getting them permanent jobs would not have been of assistance at the time of the study. For these staff a trade union committed to assisting them into

permanent jobs is not an attractive proposition; however representation of this kind clearly does assist those workers for whom agency worker is not their favoured option.

The local GMB representative deliberately decided not to recruit members outside the site that he worked at, despite pressure from his regional officer, because he felt unable to fully service members outside this site. This led to a very high level of GMB membership on that site (close to 100%) but very little membership outside that site. Unite did recruit throughout the authority. They did not have large numbers of members outside the manual occupational groups, and reported no membership in social care where Unison had very high levels of membership.

The result of this is that whilst these unions were represented within the authority and were part of the consultative arrangements, they were not particularly accessible to the agency workers within social care that I researched. Neither of the internal agencies had offered them a place in inducting new starters, though at least Unite would have been more receptive than Unison was.

In terms of recruitment of agency workers, as stated earlier, Unison does not recruit these workers, and both GMB and Unite have no targeted recruitment; if recruitment occurs it is as a result of 'normal' recruitment activity or a reaction to a request. There were very few accounts of representation and participation of agency staff. Those accounts that were given revolved around these workers seeking permanent jobs and becoming members once that was achieved or general advice being offered to non-members who were barred from joining because of their employment status. For Unison it is clear that the exclusion from recruitment is as a result of the problematic

employment status that these workers have and their triangular relationship. Whilst not explicitly excluded from membership in GMB and Unite the unusual triangular employment relationship may nonetheless explain the fact that neither union believed that it had agency workers in membership within City.

In short, within City the union that accounts for 80% density within the social care group is Unison. Its policy of exclusion (mixed in some places with replacement) of agency workers essentially means that agency workers are unable to access representation until they become permanent staff. Whilst the other two representative unions are willing to recruit agency workers, their absence from social care means that they are not an accessible option for social care agency workers. Were they accessible their agenda would at best reach only those workers that wanted their contracts to be made permanent. In spite of that in the words of one agency worker: *“It would be an improvement to be represented on anything”* (Internal administrative agency worker) so the kind of representation offered by GMB and Unite may attract him and others like him but equally it excludes those workers for whom agency work is a genuine choice.

Met provides a contrast to City in two main ways, firstly Unison does not have the same density within social care, union members are split almost equally between GMB and Unison. Secondly Unison within Met does not follow the national policy of exclusion in relation to recruitment of agency workers. Within Met local Unison representatives expressed distaste at the idea of excluding workers because of their employment status. Their position was that the purpose of a trade union was to protect vulnerable workers; they saw these workers as being both in need of and entitled to union protection if they were union members.

“I'm flabbergasted actually ... that they would be discouraging anyone from joining.” (Unison representative, Met)

In spite of this ideological position which was held by both full time Unison reps there was little knowledge of the extent of agency use within Met beyond the agencies used to outsource much of the home care. Both representatives were of the opinion that the vast majority of agency workers had undertaken agency work as a matter of choice:

“it is about why the individual, particularly for social work staff, wants to be a member of the agency rather than apply for permanency, because I think particularly at the moment there is a lot of scope for people to apply for permanency and therefore it's about a definite choice they've made.” (Unison representative, Met)

Within Met, Unison representatives believed that in the main agency workers had chosen this employment status, that essentially this status limited their rights, and the issues on which they could be represented but that they could join the union and be represented. Whether they made the choice to be an agency worker or were an agency worker as no other jobs were available, this branch saw these workers as legitimately able to join, participate in and be represented by Unison. Unison representatives at local level recognised the different issues for agency workers making the choice to continue as agency workers, and those who wanted to convert to permanent contracts. This recognition was not translated to any tangible action to assist either group. Unison representatives were not aware of any agency workers that were members, and had

never undertaken representation on behalf of agency workers.

As with City, Met has developed consultative arrangements with its major trade union partners. Unison reps did not report any issues particularly associated with agency workers being discussed. Met undertook a massive procurement exercise to rationalise purchasing of agency workers. These staff are now procured through one of two routes; administrative staff through Adecco and all others through the MV arrangements. Unison was invited to be involved in the tender for and procurement of a master or neutral vendor. They declined to be involved. Heery (2004) contends that longer term 'relational contracting' has made agencies more attractive to unions. Within Met consolidated purchasing of agency workers has meant longer term relationships with agency suppliers, however this has not translated into union involvement with this group. One agency supplying administrative staff gives its workers employee status and is used by local authorities across the LCSG group. It is hard to see why workers for this agency would be difficult to unionise in circumstances where an agency with long-term relationships with local authorities supplies large numbers of staff across the London region and whose workers are given employee status. Nonetheless there appears little recognition of this and no action to recruit these workers.

The ideological inclusion of agency workers by Unison at Met is not coupled with action on their behalf. For this reason it is difficult to place Unison at Met within Heery's four groups. There is certainly no ideological exclusion but in practice neither does there appear to be regulation, replacement or engagement. These workers are not represented, nor is there a consistent approach by Unison to limit the use of agency staff, or to ensure that their wages would not undercut those of directly employed staff.

Unison does not have a relationship with any of the agencies supplying Met with workers so representation of their interests does not occur there despite one of the agencies having a number of trade union partners and recognition agreements elsewhere. Whilst these workers are not explicitly excluded, there was no specific recruitment or representation of them, nor did general recruitment appear to draw in these workers. Perhaps a further category outside those defined by Heery (2004) could be 'apathetic', for unions in this position who in practice at workplace level do not seek to engage with the agency workforce but have no ideological opposition to them.

GMB is the second largest union within Met. Due to conflict during the Unison merger a large number of social workers and social work managers transferred from NALGO to GMB. This historical anomaly has an ongoing impact within this workforce as GMB has maintained a presence within this work group. Most of their members seem to be long serving Met employees in social work and managerial roles. Because of their high number of professionally qualified workers GMB has two representatives to support members at Met, one works with manual and care staff and the other represents professionally qualified staff and managers.

Like within City, GMB at Met would not exclude potential union members on grounds of their employment status. In essence they said that they recruited people and not their employment status. This means that there is no specific provision for agency workers in terms of recruitment and representation. Whilst individual interest representation may be available, no collective support is available, like representation to the agency on terms or conditions of work.

If Unison were the only union available to agency workers in Met and City it would appear that their prospect for collective representation was functionally non-existent. Whilst Unison branches in City and Met have very different ideological approaches to recruitment and representation of agency workers, in practice outcomes for these workers are the same in both authorities. It is this lack of recruitment and representation activity that led to a Unison representative in City saying: *“I don't know collectively that they have any voice at all.”*

The other trade unions are willing to recruit these workers, however this does not appear to have translated to unionisation of these workers within these authorities. Nonetheless the prospects for some kind of interest representation of agency workers in social care, albeit on an individual basis, appear to be best with GMB within Met and Unite in City.

Unison has identified agency workers as a particular constituency, with particular needs and particular problems. Nationally they have made a strategic choice to exclude these workers, and this policy was acted out in City but not Met. Unison at Met talks about inclusion as it would not be comfortable with excluding on the basis of employment status, however in practice they offer no collective agenda tailored to these workers and the collective representation offered is only for directly employed staff. Whilst at an individual level representation is offered there is no collective bargaining or engagement with agencies on behalf of these workers. The suggestion that Unison at Met has a policy of inclusion appears to be hollow; ideologically there is acceptance that they have the right to representation, however there is no real attempt at representation. This stance is mirrored by GMB and Unite, at local level those unions have not identified these workers as different from other workers; this means that they are not excluded but

their needs are equally not recognised as differentiated from other staff. Potentially this lack of differentiation in the offer to permanent and agency workers could in itself be a barrier to unionisation.

In Chapter 2 the structure of UK trade union representation was noted as a possible barrier to unionisation of agency workers because it is based in the workplace. Within this sector, however collective bargaining takes place at sectoral level albeit with increasing scope for local level agreements beyond the national settlement. Nonetheless recruitment and representation does take place locally and it is both nationally and locally that representatives have excluded these workers from membership. Even long-term agency workers experience frequent changes in workplace and agency. The one agency worker that was a union member described the problems with moving branches when she moved workplace, and it was only her commitment to trade unions that made her persevere. The structure of representation with its recruitment base at the workplace can be problematic for these workers. The structure of the union itself can prevent unionisation of these workers. Within the case study Unison has a rule that could be problematic as workers must be registered with the union for a thirteen week period before they are considered members and entitled to representation. For many agency workers this is more than any single placement, and workers may move employers and even sectors between placements. Furthermore their dues are collected from payroll from local authorities and this is not possible for many agency workers. Unison's dues relate to salary level; however agency workers may experience increases and decreases in salary levels with each placement, meaning that for this group the administration could be very challenging. Whilst each of these things could be tackled; for example direct debit, which could be fixed rate rather than check off, could be used to collect

union subscription, it would take a deliberate effort to change in order to accommodate different types of workers.

By contrast GMB, even without differentiating its offer to agency workers has a structure that is more accessible to them. It does not have a strict policy of restricting representation to members of over a certain period. Instead GMB reps have discretion and are able to offer representation where they feel that it is appropriate. In addition GMB's dues are fixed regardless of earnings and it does not collect dues via payroll; they are collected using direct debit, meaning that regardless of change of employer and salary level. The major structural impediments present within Unison are not in place within GMB.

The opportunities for unions to regulate the agency work labour market are not confined to the workplace. Rather than dealing with a variety of agencies, unions may deal with the user organisation, particularly in sectors with monopsonists; local authorities for teachers and social workers, and the NHS for nurses and doctors (Heery, 2004). Beyond those areas in which specific skilled labour is employed by a small number of employers the opportunity to negotiate to regulate agency work, at least in the public sector, exists in areas where procurement has been consolidated. The move from ad hoc purchasing of agency workers, to consolidated procurement, often undertaken by regional procurement groups, may offer unions a means of negotiating minimum terms and conditions on behalf of agency workers across the local authority or procurement group by including them in tender documents. This study revealed an example of unions seeking to regulate the conditions of workers in triangular employment relationship in precisely this way in the tender for outsourced domiciliary care in City. Unison was

able to negotiate for a minimum skills and training guarantee and to ban the use of agency workers carrying out the contracts.

This is important because it may allow unions in local government to influence the treatment of agency workers in negotiation with the local authorities themselves rather than the individual agencies the local authorities use. Because many of the MV/NV tenders are put together regionally by purchasing consortium like London Contracts Suppliers Group and Eastern Shires Purchasing organisation it may be possible for trade unions to negotiate regionally rather than locally to secure key conditions for agency workers. Heery (2004) argues that relational contracting between user organisations and agencies may make it easier for unions to recruit and represent agency workers. While outsourced workers may come from a huge number of different companies (a GMB official indicated that one local authority in the south east region was rumoured to have over 1000), increasingly agency workers are provided either directly by a master vendor, or procured through a neutral vendor. In either case a single organisation is responsible for ensuring these workers meet the standards laid out in the agreement with the user local authority. Agreements with just three Master and Neutral vendors across Greater London would cover most agency workers within local authorities in the area.

Within the case studies there was no evidence of union engagement with the procurement of agency workers in either of the local authorities, though in both they were invited to be involved in the tendering process. This is an area in which there is scope for future union activity.

Another area in which unions are able to regulate agency work is through political

campaigning. Unison, GMB and Unite have all campaigned at the political level to improve legislative protection for agency workers. The Labour Government's manifesto commitment to drop its opposition to the proposed EU directive on temporary agency work has been attributed to the so called 'Warwick agreement' with its trade union sponsors. Its recent announcement that it would press ahead with domestic legislation in light of the agreement between the government, TUC and CBI has come on the heels of vocal pressure applied by the unions in their sponsorship of two private members bills and direct lobbying.

Because trade unions act at different levels (EU, national, regional and local) and engage in both political lobbying and collective bargaining it is difficult to categorise their behaviour at all levels within the framework laid out by Heery (2004). Unison's actions in lobbying at political level and investing resources in responding to government consultation exercises on agency working is not indicative of a trade union that excludes agency workers.

The strategy of political engagement in respect to agency workers, and in particular to pursue equal treatment legislation, shows unions may be looking to overcome the main drawbacks of unionising these workers. Equal treatment legislation reduces the threat of agency work undercutting the terms and conditions of permanent employees, which is a barrier to unionisation at present. It also increases the areas in which agency workers and permanent employees have common interests. For example presently pay settlements reached on behalf of permanent employees have little relevance to agency workers; however with the introduction of the requirement for equal pay after twelve weeks a pay settlement reached with a user organisation will also apply to long-term

agency workers. This ability to negotiate with the user employer, particularly in the public sector where unionisation levels are high, allows unions to act on behalf of agency workers in the areas in which equal treatment legislation applies without presenting a differentiated offer to these workers. While other workers with triangular employment relationships providing public sector services, such as outsourced workers, may require unions to engage with their private sector employers to negotiate pay and conditions, long-term agency workers will have access to pay, and some terms and conditions, negotiated only with the user organisation.

Unison has undertaken a regulation policy with regard to agency workers, and pursued this primarily at political level. At local level it has excluded agency workers from membership primarily because they are unable to take part in collective action, because they are particularly vulnerable and have very limited capacity to act and because they are most likely to ride out problems or leave the organisation rather than seeking union support to challenge workplace problems. Rather than attempting to recruit agency workers Unison has sought to act on their behalf at political level to secure legislative change. It has not done so in the interests of existing members who are agency workers, as most agency workers have been excluded from membership. Regulation of the kind agreed between the TUC, CBI and government offering agency workers with over twelve weeks service equal treatment in respect of pay and some conditions of employment does reduce the potential for agency workers undercutting the terms and conditions permanent staff.

Trade unions in this sector have applied pressure for legislative change rather than engage in workplace recruitment and representation of agency workers. They recognise

the oft portrayed image of these workers as being in a particularly vulnerable employment position and sought to change this by applying pressure for regulation.

A possible explanation for Unisons' reluctance to unionise these workers can be found within Heery's work. He suggests that declining unions have sought to recruit these workers. As a public sector union Unison is in a sector which has traditionally experienced high membership levels and it has not suffered the vast membership losses of unions within the private sector and particularly manufacturing. Because Unison has not suffered the decline of unions in other sectors it arguably has not had the impetus to embrace and adapt to new forms of employment. Alternatively it is possible that Unison has focused resources on dealing with the changes relating to CCT. The outsourcing of services has led to the transfer of staff previously employed directly by local authorities to a huge number of private sector employers.

In contrast both Unite and GMB have experienced significant decline which was more pronounced in the private sector, both have invested substantially in their own Organising Academies and have recognised the importance of non-standard workers as a matter of national policy. This embracing of atypical workers generally has not translated into a differentiated offer or unionisation of agency workers in the local authority social care sector but the dominance of Unison in this area may explain this.

The response of the trade unions in the case study organisations to agency workers at local and national level has been outlined. In Unison's case local level regulation or exclusion is coupled with political lobbying to increase employment protection for these workers. For Unite and GMB the local level position seems one of indifference to these

workers, they do not see their different employment status as a reason for exclusion from the union, nor do they specifically engage with these workers and their agencies. This behaviour appears to fall outside the categories that Heery (2004) offers and is perhaps an extension to the framework he lays out. Again these unions have applied political pressure for legislative change. The differences between the workplace level practice and national level policy makes it difficult to categorise the behaviour of the trade unions to agency workers within a single category of response.

Professional Associations and access to voice

The previous section details the lack of union involvement with agency workers in local government social care. If it is the workplace union's view that collectively agency workers have no voice at all it becomes important to explore the remaining options. For occupational therapy and social work staff professional associations may provide a forum for agency workers to seek advice, support and voice outside traditional trade unions. This section explores the role of the British Association of Social Workers (BASW), the professional association for social workers, in assisting individuals or groups in raising workplace issues.

BASW's membership is open equally to permanent staff and agency workers. It has an independents forum, open only to staff that are not directly employed by a local authority and this forum has a conference every second year. This provides an opportunity for agency workers and other independent workers to address matters that are particularly important for them. This gives these workers a forum for peer support

and the ability to discuss issues that they have at work relating to their employment status rather than particularly their workplace. Whilst this does not necessarily offer the opportunity for collective representation at the workplace level, it may allow BASW to represent workers over some issues at the policy level.

BASW, as a professional association, represents primarily on issues related to professional status. This is acknowledged by many agency social workers

I suppose it's about being a professional social worker, [BASW] support that sort of thing, your development and professionalism. I suppose I don't really see them as a trade union." (Agency social worker, Met)

The lack of a workplace foundation for its organisation removes the problems associated with changing branches when you change workplaces as an agency worker. Whilst in the main the offer to agency workers is not differentiated from that to directly employed staff, the focus on the professional status of social workers means that employment status has little effect on the impact of the agenda of this professional association and its pull to all groups of staff. As such the needs of agency workers do not come a poor second to the needs of directly employed staff. The benefits of membership are equally applicable to both agency workers and permanent staff, with some being arguably of more assistance to agency workers. For example whilst directly employed staff have access to professionally accredited training with their employers, this option is not always available to agency workers. In the last chapter it was clear that some workers were able to access training through their workplace or their agency. For those social workers unable to do so the provision of discounted accredited training

may be particularly attractive. A number of agency social workers pointed to the access to training as a reason to consider joining BASW:

“I would consider joining BASW mainly because they put out interesting material on social work; it’s also a good way to access training.” (Agency social worker, City)

Similarly the legal cover offered may be of particular interest to these workers who are not protected by a conventional employment relationship.

Some workers felt that BASW was useful and that membership supported them to keep up with new developments, access training and indemnity cover and be aware of national issues in their field. Others felt that the organisation did very little for them individually and for social work as a profession. None cited agency status as something that would decide whether or not they were members, or that would change their view on the organisation. A small number of professional social work agency workers were positive about the fact that their agency was affiliated with BASW because it gave them easier access to training.

Whilst social workers are able to access their professional association, this does not provide a forum for collectively agreeing conditions of work. The access that BASW provides to advice and representation is certainly an improvement on the ability of other agency workers to access these functions, however it lacks a workplace collective voice. The fact that workplace representation on individual issues is limited to those workers that are also trade union members and whose trade union has not provided adequate

representation provides a barrier to representation even when agency social workers are BASW members. If this is strictly enforced then even individual representation would be denied to most agency workers because they are not union members.

BASW representatives in the advice and representation function I interviewed were not specifically aware of many instances of representation of agency workers. Their recollection of the issues that they had dealt with in relation to these workers were solely related to the problems associated in getting references from user organisations. In the instances noted they were able to provide assistance by providing proforma letters to be sent to user organisations and by contacting them directly to push for references.

As discussed in the last chapter many agency social workers deal with problems at work by exiting the agency and/or the workplace employer. Getting accurate references from a previous employer was a frequently cited difficulty with exit. The fact that BASW's advice and representation unit was willing to deal with problems of this nature without strictly enforcing their policy of insisting that members seek support from their trade union allows agency workers access to support with their chosen method of resolving workplace problems.

BASW offers agency social workers advantages that may be more attractive to them than to their permanent counterparts. These include indemnity insurance, legal representation, and access to training. While conventional employees accrue benefits in these areas they are arguably of greater interest to agency and self employed social workers. At recruitment events BASW were clear that agency, permanent and self-employed social workers joined and that there did not appear to be ideological

resistance on the part of agency workers to membership.

Conclusion

This chapter has reported on the ways in which agency workers and trade unions and professional associations interact. The previous chapter reported that there were serious impediments to mobilisation amongst agency workers arising from the triangular employment relationship. It is then perhaps surprising that a number of these workers attempted to join a trade union and many more indicated that they would join a trade union if they were asked to. It is less surprising that many other agency workers indicated that they were of the belief that being an agency worker meant that either the union was not interested in you being a member, or that the union was not relevant.

Expatriate and short-term convenience agency workers who indicated the greatest inclination to exit in response to a problem at work also indicated the least interest in joining a trade union. They described trade unions as irrelevant to them as agency workers. Job seeking agency workers, and career agency workers, particularly those that were internal agency workers indicated the greatest interest in trade unions. These workers expressed social identification with agency and permanent colleagues, and many suggested that they would share similar work related issues with other agency workers and permanent staff.

The trade union response to agency workers in local government has been outlined.

Unison's exclusion of agency workers at local level in one local authority in line with national policy, and indifference to them at the other was contrasted with its political lobbying. GMB and Unite's ideological inclusion was discussed alongside the lack of activity in the local authority social care setting. This chapter concludes that trade unions do not offer agency workers in local government social care access to representative voice.

The prospects for agency worker voice at work are presently limited. The last chapter outlined the impediments to the opportunity to act on problems at work, and particularly to act by voicing issues. This chapter has reported on the representation gap for agency workers at the workplace in local authority social care. Trade unions are taking action on behalf of agency workers, but this action is being taken without reference to the workers themselves because, at least in the case of Unison, they are excluded from membership. Rather than representing the interests of members, articulated through union structures, Unison is acting for agency workers to further what it perceives to be their interests.

Agency social workers do have access to representative voice in the form of their professional association. The services it offers members are of particular interest to agency workers. It also offers advice and representation, though this is limited. Advice and representation was provided to agency workers with getting references from previous employers, a problem frequently cited by agency social workers in this study. Agency workers that expressed resistance to the idea of joining a trade union were more positive about joining BASW because of the services it offered and the commitment they felt it showed to their profession as social workers. For many agency social

workers these issues were more important than the provision of assistance with 'voice'.

This chapter has established that there is a representation gap for agency workers at workplace level. A number of agency workers sought to join trade unions and were rejected by them. The workers that identified most closely with the user organisation and their permanent colleagues were the most inclined to join a trade unions. This supports the view that social identification is a key factor in desire for unionisation. Most of the workers that had attempted to join a trade union were administrative and care workers, and the workers that expressed the greatest dissatisfaction at being rejected were job seeking internal agency administrative workers. As discussed in the previous chapter these workers had little access to voice or exit and perceived their employment as particularly precarious generally without labour market or employer job security. They perceived unions able to offer any form of representation as an improvement, even if that representation was necessarily less comprehensive than for their permanent colleagues. Other workers, such as expatriate agency workers, were clear that they did not need support at work, and were not interested in any form of representative voice. This is yet another example of the way in which the triangular employment relationship is experienced differently for different types of agency workers.

Chapter 9 – Discussion and conclusion

This concluding chapter highlights the main findings of the thesis. It summarises the diversity in the management of agency workers and their experience of work to show a great deal of heterogeneity. It engages with the literature presenting agency workers in binary categories to suggest that these do not offer a sufficiently nuanced understanding of the variations between workers, arguing the typology presented in chapter 7 offers a clearer way of understanding differences between agency workers. It moves on to discuss the capacity of various types of agency workers to act in response to problems at work and argues that the differences between agency workers are important in determining their ability to respond. The desire for protection and voice and the implications for union renewal are discussed, identifying the key role of changing employment law as a lever to the closer identification of these workers with their permanent colleagues, and to their unionisation.

Inside the triangular relationship

Looking inside the triangular relationship at how workers are managed has established the varied approach taken by managers to these workers. The literature that identifies the split in employer function and its implications for the legal position of these workers, the implications of having a triangular employment relationship on a day to day basis for managers or workers themselves is rarely considered. The confusion of managers and lack of clarity in how agency workers should be managed is clear within Chapter 6. For managers within the user organisation it appears little support exists in

terms of how these workers should be recruited, trained, supported at work, or even dismissed. This leads to divergent practice even within the same organisation and department. The personnel policies used to manage these workers are rarely explicit and managers believed that taking disciplinary action against agency workers was futile, preferring instead to have informal discussions or ending placements. Agencies have little contact with their staff, even when they are 'employees' of the agency and most management activity occurs at the workplace. Whilst agencies may become involved if there is a problem, this is generally limited to moving these workers from their current placement, either at the behest of management or the worker. This study found managers in the user organisation making decisions about the competency and conduct of agency workers; they assume many employer functions without having legal accountability for these workers (except in a small number of areas relating to health and safety).

Management of agency workers was divided across the agency and workplace organisation, but with no clear delineation of which organisation was responsible for which aspects of management. Similar results were found in the study by Rubery et al (2003: 279) of outsourced workers. They found that “the presence of multi-agencies can result in cross-cutting lines of control, confounding expectations and confusing job roles of both managers and employees.” The triangular employment relationship for both outsourced and agency workers leads to difficulties in defining management roles and offering workers a clear understanding of how they would be managed and who was responsible for them.

Understanding heterogeneity in agency work

Agency workers themselves are a diverse group with very different reasons for taking agency work. They commented on the diversity of management practices, the fact that their treatment was very much at the discretion of their line manager and, to some degree, their permanent colleagues. They were aware of the precarious nature of agency work and the possibility that they could be given very little notice of the end of a placement. Their perceptions of the security of agency work varied a great deal.

The diversity in the management of these staff has important implications. The quality of their management is a very individual concern because few workers work in teams with other agency workers. Because so much of the experience of agency work is related to their individual manager workers conceptualise problems with their work as individual and relating to their treatment as a single agency worker. Agency workers in this study identify some managers, placements and teams as poor, others as good. They identify this as a feature of agency work and sometimes as a problem with a particular placement. In the main it is accepted as par for the course rather than challenged.

The heterogeneity of agency work that is introduced within the first theme carries throughout the thesis. The points of comparison abound, from the voluntary/involuntary agency worker dichotomy raised by Forde and Slater (2005), through occupational differences, internal versus external agency worker differences, and the typology which was developed in Chapter 7. The experience of agency work is affected by differences between agency workers. In short, difference matters.

Atypical work in general, and agency work in particular, is often portrayed in ways that do not recognise the diversity of workers undertaking such work. Often atypical work is identified as poor, insecure work; however not all atypical workers experience contractual insecurity (for example part time workers are often on permanent contracts) and not all atypical workers are poorly paid (some agency workers receive higher pay than their permanent counterparts). Accounting for difference in atypical work is challenging because of the wide array of differences that exist even within one category of workers. Agency work is especially difficult because it differs so much from standard permanent employment. Nonetheless, a variety of classifications exist, some of which present polar caricatures of these workers. They often present a binary choice; either a worker is a voluntary or involuntary agency worker; agency work is either a bridge or a trap; agency workers are either highly vulnerable or free agents. This thesis has sought to illuminate the array of shades of grey between the extreme ends of these spectra. It has presented agency workers that do not fit at either end, and in some cases do not fit on the spectrum at all.

Workers can be divided into those who voluntarily select agency work and those for whom agency work is not a choice. This division is helpful because the level of choice in taking an agency job does appear to change the experience of agency work considerably. Forde and Slater (2005) found that 'voluntary' agency work was not higher amongst highly-skilled workers, the young, women, or those with children. Within my study occupation made a difference in that agency social workers were more likely to be voluntary agency workers than administrative or care workers. Not surprisingly, satisfaction with agency status was higher amongst voluntary agency workers than involuntary agency workers. However the difficulty with the division into

voluntary and involuntary agency workers is that it suggests a strict division that is not easy to identify in practice. For some agency workers there is a clear drive to agency work, such as the inability to find a permanent job, and for such workers it is easy to categorise them as involuntary agency workers. In contrast, other workers may have chosen agency status for a variety of reasons outlined in the literature including being able to achieve a satisfactory work/life balance, being able to work part time, being able to gain varied experience or to specialise in a particular area. Still others may be pushed into agency workers for the reasons that Hoque and Kirkpatrick (2006) suggest around the degradation of work in the public sector.

Whilst the agency social workers in my study could be categorised on the whole as voluntary agency workers, many of the convenience agency workers had selected agency work because they were unable to find a permanent job that allowed them the flexibility that they wanted. Whilst survey data may suggest that there is a clear line between voluntary and involuntary agency work, interviews offer a fuller account of the reasons for accepting an agency job that is framed in the context of the workers home and work life. My interviews identified various drivers to agency work that centred around making work possible for their personal and family circumstances in a way that a permanent job was unable to. The availability of permanent roles which would accommodate workers with caring responsibilities or workers that wanted to work a non-standard week or year would have allowed these workers more freedom to choose between agency or permanent work.

The current rigidity in public sector employment is a driver towards agency work for many workers. Many use agency work to increase their pay and to take advantage of

flexible working hours that are less commonly available as a permanent member of staff. Rather than accepting established patterns of work, agency workers appear more able to negotiate flexible working that suits their needs. With the introduction and subsequent expansion of the right to request flexible working for permanent employees this advantage of agency work may in the future be matched in permanent employment. Nonetheless at the time of the research many agency workers counted this as a key advantage of agency work.

Beyond the voluntary or involuntary dichotomy there is an element of constrained choice for some workers that belies the simplicity of these categorisations. Met had successfully recruited a number of agency social workers. At the time of the research they were unable to give precise numbers, but within this study three workers were in the process of transferring to permanent work. The success Met had enjoyed in recruiting agency workers to join their permanent staff offers some support for the suggestion that agency work is a constrained choice. Met had recognised the recruitment potential that agency workers offered and had conducted research into the critical issues that prevented agency workers from becoming permanent employees. In response to this research they had put in place more flexible opportunities for social workers in terms of moving between social work teams and hours of work as well as fuller provision of childcare for permanent employees. They recognised that agency workers may use a period of work with a particular department to decide whether they wanted to consider a permanent role, and highlighted the opportunities available within the local authority to these workers. Their ability to capitalise on the trial period that agency work offered them in recruiting permanent staff is precisely because they gave agency workers the opportunity to express their preferences with regard to the

organisation of their working lives. Taking account of the preferences of agency workers and the reasons that they selected agency work gave Met the ability to offer these workers some of the non-financial advantages that agency workers valued, and in doing so to recruit workers in a very tight labour market. No agency social workers within City were looking to transfer to permanent work.

Agency work has been viewed as a bridge to permanent employment by some authors (Buchteman and Quack, 1989, Gray, 2002) and it formed an important part of the debate over rights for agency workers. The Confederation of British Industry (2001) and the Recruitment and Employment Confederation (REC) (2002) argue that that agency work acts as a bridge to permanent employment for many workers. The government recognised the role agency work played in assisting people to enter and re-enter the labour market and identified the importance of this role when announcing its deal with the CBI and TUC over agency workers rights. Secretary of State for Business, Enterprise and Regulatory Reform, John Hutton said the deal would "give people a fair deal at work without ... cutting off a valuable route into employment". A number of voluntary and involuntary agency workers in my study were hoping to use agency work as a bridge to permanent employment. Some had recently made the transfer from agency work to permanent employment.

Forde and Slater (2005) found that less than half of agency workers in their survey made the move from agency work to permanent employment in a twelve month period. The positive image of a route into 'secure' permanent employment portrayed by the REC, CBI and Government is rarely coupled with an acknowledgement that sometimes agency work provides a trap into which workers fall with little possibility of gaining

permanent employment. Within this study some involuntary agency workers struggled to find permanent work and felt trapped in agency placements. Whilst they had hoped in previous placements to access permanent employment through agency work they had been unable to and had instead found themselves 'back to square one' at the start of a new placement.

The understanding of agency work as either a bridge to permanent employment or a trap preventing workers from finding permanent jobs fails to account for those workers for whom agency working is a long-term choice. In some sectors agency workers find the benefits of agency working so attractive that it becomes a career option or at least a long-term choice. For these workers considering whether agency work is a bridge or a trap does not account for their experience of work, it is an active choice in its own right, equivalent to permanent work.

Agency work may be a bridge for workers to gain permanent employment, but it may also be a way of employers recruiting permanent workers in tight labour markets. It has been noted (Purcell et al 2004, Gray 2002) that some workers find it difficult to locate direct employment opportunities and that they may be pushed to seek jobs through an agency. Likewise in areas of staff shortage employers may be pushed to make use of agency workers where they would otherwise have a preference for permanent staff. Just as Forde and Slater (2005) point to the use of agency contracts to test workers, agency workers may use agency placements to test prospective permanent employers.

Kunda et al (2002) outline two other perspectives on agency work; the employee relations and free agent perspectives. They suggest that the free agent characterisation

of agency workers is of highly skilled and mobile workers and the employee relations perspective outlines vulnerable workers enduring precarious poor quality employment. Whilst the employee relations perspective may explain parts of the experience of vulnerable involuntary agency workers with its emphasis on the exploitative nature of agency work, it does not explain the experiences of voluntary agency workers. Although it does identify some of the drawbacks of agency work that most agency workers face in terms of contractual insecurity and lack of access to training and benefits, it does not offer any insight into the benefits that may accrue to agency workers. In contrast, the free agent approach to agency work identifies agency workers very differently. It suggests that such workers have more freedom than their permanent counterparts. However, it also applies narrowly, and fails to recognise the drawbacks of agency work. The former focuses on the powerlessness of the agency worker and the degradation of their terms and conditions of employment. The latter identifies agency work as a means of restoring lost surplus value; however this is generally only for certain types of agency workers with valuable and rare skills in tight labour markets. Both approaches are too narrow to explain the range of experiences of agency workers. The diversity of agency workers makes it difficult to make broad statements about their experience of work.

Within this study, agency social workers might appear like the 'free agents' outlined but many of them identified significant problems with agency work. Like the workers studied by Kunda et al (2002) they are very aware of both the advantages and disadvantages of agency work. Internal agency care workers provide the best example of workers that are certainly lost in the gap between the two categories. They do not experience the boundaryless careers sketched out by the free agency category, in

particular they do not reclaim some of their lost surplus value, rather they experience similar pay but fewer non-pay rewards (such as enhanced holidays, sick pay) than their permanent counterparts. Equally they do not fit comfortably within the employee relations model of agency work because they have, in the main, selected it over permanent work and do accrue some of the benefits of flexibility and control over working that some other agency workers do not.

The agency social workers within this study reported a desire to escape the rigid structures of public sector employment. Many agency social workers do use agency work to escape the bureaucracy of the public sector and to distance themselves from the policy decisions of the local authority. For professionally qualified agency workers in tight labour markets agency work can provide an avenue to escape the control and influence of the traditional working relationship. They can use their labour market power to individually negotiate higher rates of pay and flexible working arrangements to suit them. They may also use agency working to create distance from the user organisation and to demonstrate their independence from their employer. These findings echo outside the case study organisations and are consistent with other studies. These include research by Hoque and Kirkpatrick (2006) who found that the 'free agent' perspective does not comprehensively explain the reasons for people becoming agency workers; they point to the degradation of permanent employment in a variety of settings and argue that it is a factor pushing people to move to agency work. Similarly the New Understanding of European Work Organization (NUEWO) (2003) found drivers to agency work in the scope to increase financial rewards and adjust working hours, particularly in public sector nursing. In this and other studies individual agency workers in tight labour markets are able to take advantage of their position to secure

higher pay and to work hours that suit them. They are also able to escape parts of public sector organisational life, such as the necessity to specialise and the rigid hours of work, and they can use agency work to maintain distance between themselves and the organisation.

While workers in tight labour markets may see advantages to agency work, they do not overcome the marginalisation experienced by agency workers. This thesis has described limited access to employer sponsored training and workplace voice channels. Both NUEWO (2003: 131) and Hoque and Kirkpatrick (2006) concur that even professionally qualified agency workers are marginalised in terms of training and consultation. Working contingently may be a way to avoid control and influence of employers, specialise in a particular field of expertise, create a distance and demonstrate independence, but it also exposes workers to unstable employment relationships, limited access to consultation and training, and few legally enforceable employment rights. While many of the workers in this study enjoyed the benefits of agency work, some were unable to access the benefits because of their position in the labour market. For these workers agency work offers access to the labour market on disadvantaged terms, without offering the advantages that accrue to other workers.

Beyond dichotomy

Whilst the simplicity of a dichotomy is attractive, and categorising agency workers as either vulnerable or not, in need of protection or not, desiring voice at work or not is an attractive prospect, they are simply too heterogeneous to fit such binary/elementary categorisations. The typology expressed within this thesis is founded on the basis of the

workers and their managers that I interviewed and it is difficult to argue that they are able to be generalised to the agency worker population in general. Nonetheless, similar themes run through the literature on agency workers, particularly in terms of why workers decide to become agency workers and their perceptions of the advantages of agency status. My typology captures a broader picture of agency workers and their motivations for taking agency work.

The typology of agency workers offers conceptual categories to assist in understanding and explaining the experience of agency workers within this study; however its contribution to knowledge extends beyond this. It can be applied to categorise agency workers in other studies. Druker and Stanworth (2004) noted that of their thirty two interviewees sixteen were looking for a permanent job and fourteen indicated that they certainly were not interested in a permanent role at the time of the research. They also noted a group of workers who were planning, engaged in or had just returned from travelling; whilst it is not clear whether these workers were expatriate, it appears that they would fit into my convenience or expatriate agency worker categories. Like the workers in my study, different agency workers offered different reasons for selecting agency status. They indicated that some were interested in exploring different avenues of work and found agency work a convenient way of doing so. Druker and Stanworth (2004: 64) also found other workers who “rationalised their position in relation to personal preference or a reluctance to accept the work disciplines associated with permanent employment”. The reasons that they described for these workers selecting agency status appear to fit within the job seeking, convenience and expatriate agency worker categories. Tailby (2005) also identified 'bank' nurses in the NHS that fit into the convenience worker type of agency worker. These nurses identified a range of

reasons largely around nurses' ability to manage home and work schedules.

The fact that agency workers in these studies, in a variety of settings, express similar drivers towards agency work, or in some cases away from permanent work, suggests that the typology presented may be broadly helpful in categorising agency workers in a way that assists with understanding their experience of agency work. It provides a framework that may help to explain choices made by these workers with reference to the reasons for taking agency work and the particular advantages that accrue to them from doing so. They also provide a basis for looking at issues relating to the management of these workers and their need, desire and opportunity for voice at work. The typology presented within this thesis is applicable beyond the primary research and provides conceptual categories that can assist with analysing the experiences of agency workers.

Mobilisation theory and explaining worker action and inaction

A key contribution of this thesis has been to engage with mobilisation theory to explain the difficulties agency workers experience in responding to workplace problems. While mobilisation theory as laid out by Kelly (1998) is primarily conceived as a way of explaining collective action, it is used within this thesis to explain both collective and individual action in response to problems at work. It identifies the difficulties that the status of agency workers may present for mobilising both collectively and individually and discusses the opportunities to act that arise from the triangular relationship that are not present within a standard employment relationship.

Mobilisation theory can be used to explain why workers take and do not take collective action. Kelly (1998: 27 – 38) notes a number of stages to mobilisation. Workers must move from a sense of general dissatisfaction to the perception that they have experienced an injustice. They must then perceive the injustice as being attributable to a dominant group; for agency workers this means one of their two employers. Social identification with their peer group is important to workers viewing problems as collective, and leaders play an important role in identifying and framing issues and supporting group identity. Workers will also make judgements about the likelihood of success or failure of collective action. Mobilisation theory also offers a means of analysing the ways workers come to make decisions about how to react individually in response to dissatisfaction at work. What follows is a discussion of the elements of mobilisation theory and how they relate to agency workers within this study, starting with injustice, attribution, social identification and moving on to the opportunity to act.

The triangular employment relationship and its accompanying uncertain legal status causes problems for agency workers in moving from dissatisfaction to injustice. For example, while a number of workers were dissatisfied about their exclusion from team meetings, they did not view this as illegitimate, rather they understood this as resulting from their status as agency workers. Workers believed that less favourable treatment was justified on the basis of their being agency workers. The lack of employment rights, and the difference in employment protection for agency workers compared with permanent workers, is an external factor shaping workers' and managers' perceptions of what is legitimate. It allows agency workers to be treated less favourably by colleagues and managers without believing that such treatment is illegitimate, and this is a major counter-mobilising factor that prevents workers from making the move from

dissatisfaction to injustice.

Attribution is also problematic within the triangular employment relationship. Rather than identifying one of the parties to the relationship as responsible for problems, agency workers may see the problem as inherent to agency work, or shared between their employers.

Social identification is challenging for agency workers. This thesis has presented data from both agency workers themselves and their managers about the different treatment that they receive at work. These workers were located in disparate teams, throughout the organisation. Most agency workers worked in teams where there were no more than two other agency workers. This severely limits the opportunity for these workers to form some kind of social identification with other agency social workers. The divisions fostered by the employer between agency workers and permanent workers have the effect of undermining social identification, as well as stifling interest recognition. The distance agency workers feel from permanent colleagues may have the effect of undermining the view that collective action is possible and appropriate. It did not always deter agency workers from addressing problems collectively, however it does present a serious impediment to group cohesion and social identification.

Kelly's mobilisation theory is primarily concerned with collective action, however it is used within this thesis to explain both collective and individual action. This thesis has presented the ways in which workers acted in response to problems at work. It argues that some agency workers are able to act differently to their permanent counterparts because they have a triangular employment relationship. This offers them additional

opportunities to engage with one employer through the other, or to disengage with only one of their two employers while remaining in employment with the other. These options are in addition to the typical exit, voice and loyalty options laid out by Hirshman (1970). It finds that the degree and type of job security perceived by agency workers are important factors shaping the ability of agency workers to act in response to problems at work.

The contribution of this section is to apply mobilisation theory to a new group of workers and to use it to explain their action and inaction. It looks at the opportunity to act and concludes that while some agency workers are powerless to act, others have opportunities to act that are unique to the triangular employment relationship.

Recent developments in employment law on agency workers

As of 1st September 2008 the position of agency workers in the UK is problematic. The leading case in the area stated that it was unrealistic to expect “perfect predictability” in determinations of employment status and that the nature of the judgement meant that tribunals had a “degree of latitude without falling into legal error” (*James, 2008*). Forde and Slater (2005) note that it is beyond doubt that agency workers are presently one of the least protected groups in Britain's labour market. This thesis described the detail of the management of agency workers and their experience of work within the case studies. Most agency workers sign contracts establishing that they are not employees of the agency. Few have any formal contract with the user organisation. For them to be considered employees of either the user organisation or the agency behaviour must be

inconsistent with any written contracts in place.

The workers in this study had widely varying management and treatment. Some managers argued that you would not be able to tell the difference between an agency and permanent team member, others suggested that agency workers were treated very differently and excluded from team meetings and training. In spite of these wide variations it is unlikely that most agency workers would be considered employees at present. Even those workers who were provided by the user organisation with a work uniform, the tools for the job, and were treated in every respect like permanent employees may be held to be behaving in line with the contract between themselves and their agency. Agency workers may have great difficulty in establishing that any treatment is inconsistent with a contract that is silent on points of management.

As noted earlier the legal framework is important to the ability of workers to voice issues at work and can act as a lever for unionisation. The proposed legislation guaranteeing agency workers equal pay and treatment after twelve weeks does nothing to address their lack of employee status. Presently employers, permanent workers and agency workers themselves view treating agency workers less favourably as acceptable. This acceptance has a substantial counter mobilising effect as discussed earlier. It affects interest definition, perceptions of dissatisfaction and injustice and the attribution of problems at work as well as social identification. Equal treatment legislation is likely to undermine the present perception because it changes the established rules set by national and EU level regulation. The philosophy underlying the legislation, suggesting that it is illegitimate to treat agency workers differently to permanent workers in a variety of areas including pay, is likely to challenge the present perceptions of

employers and workers alike. This is likely to offer agency workers some external validation to their feelings of dissatisfaction at work that arise from being treated differently from their permanent counterparts. The legislation is, however, unlikely to offer agency workers any protection from unfair dismissal, which means the implications for assisting agency workers in a weak labour market position with little employer job security to act in response to problems at work are likely to be small.

Agency workers and trade unions

This thesis has reviewed the opportunity to act on problems at work for various types of agency worker. While for some workers the opportunity to act is obscured by the triangular employment relationship, the desire for voice at work may not be. The heterogeneity of agency workers matters not only to the experience of agency work but also to the desire for protection and voice. Some workers have little desire to be heard within the user organisation or agency, while others reported seeking to join unions in order to access representative voice.

The literature identifies that agency workers are rarely members of trade unions and their conditions of work are rarely set by collective bargaining. Whilst some workers in my study have sought out trade union representation, they were discouraged from becoming members because of their employment status. Trade union voice was not available to the workers in this study, either because of exclusion by the trade union or because the unions that accepted agency workers were not visible or actively recruiting. Professional associations were available to relevant agency workers; they offered some

forms of workplace advice and representation but not collective bargaining.

Trade unions within this study recognised the powerlessness of some agency workers. They reported being unwilling to recruit workers who have few rights on which they could be represented, and whose position was more likely to be jeopardised than improved by unions acting on their behalf at the workplace. Nonetheless some agency workers attempted to join trade unions.

This research found some evidence of the ability of agency workers to conceptualise problems as collective and to act upon them collectively, even in the absence of trade union support. Issues reported by internal agency care workers to the internal agency resulted in the trade union being invited to attend a meeting of all internal agency workers. The workforce identified that it had collective concerns and key individuals identified that the trade union may have a role in addressing them. The rejection of these workers by the trade union is especially difficult to understand in this context, where workers were solely working for the local authority, had generally several years service, were actively interested in joining the trade union, and were easy to identify via the agency manager who was herself an active Unison member and who had invited Unison to come to meet them as a group.

The ability of these workers to identify issues as collective was framed by important factors, including the fact that these workers experienced high levels of employer security, they worked for the primary care agency for the local authority, and they attended training together on at least a yearly basis. They also often had contact with each other within the City care homes, as each home often had two or more agency

workers on a shift. The particular relationship that the internal agencies at both Met and City have with the local authority would seem to make these workers the most similar to conventional directly employed staff, and these workers expressed stronger social identification with their internal agency and permanent colleagues than other agency workers in this study. These factors are likely to make these workers easier to organise than other agency workers.

The workers that expressed the greatest desire for union voice were those who, lacking both labour market and employer job security, felt powerless to act, as well as internal agency workers who identified strongly with their permanent counterparts and their internal agency colleagues. While some agency social workers expressed a desire to join trade unions this was more often for ideological reasons.

In the last chapter, I noted the potential advantages to the user organisation of creating voice channels that were accessible to agency workers. These particularly apply for agency social workers who are expensive to recruit and difficult to retain. In addition to being able to resolve problems at work early, potentially retaining more agency social workers, voice channels may have the added advantage of enabling local authorities to understand the reasons that agency workers select agency status. The organisational view seems to be that these workers select agency status either because they would not be able to get a permanent job because they are poor social workers, or because they want more money than permanent work offers. This fails to grasp a key reason that some agency workers choose agency work, the flexibility. Some agency workers wanted more control over their work life balance and the ability to take time off with their children when they were ill or over school holidays. Others valued the ability to

move between departments and specialisms or the potential to take extended breaks. Such workers often viewed permanent work as generally preferable but had been unable to find roles that allowed them the flexibility that they required.

If local authorities are able to understand the desire for flexible working on the part of a significant number of agency workers they may be able to organise permanent work in such a way that it attracts workers back into permanent work from agency work. The difficulty is accessing the views of a diverse, dispersed, unrepresented workforce. Whilst Met was developing an understanding of the views of agency workers by direct communication, exit interviews, surveys of agency workers and feedback from this project in order to attempt to address its recruitment and retention problems, City had nothing in place. Both the union and local authorities are interested in some workers becoming permanent employees and it may be that unionisation of these workers as agency workers would assist in understanding their views and moving them into permanent employment.

The ability to voice issues at work relates to both personal and collective employment concerns as well as organisational issues. This thesis cited only one area in which an agency worker brought an operational problem to the attention of the user organisation, other issues were broadly speaking complaints about the treatment of the workers themselves. Nonetheless, offering workers the ability to raise workplace issues without fear of dismissal offers benefits to employers as well as employees. Not only does it make it more likely that serious issues with potentially serious consequences for service users are reported, it also reduces the likelihood of workers exiting the organisation with all the costs it entails.

The recent literature on union renewal has identified that trade union policies, practices and structures all influence the growth and decline of trade unions (Simms 2007, Heery and Simms 2008, Holgate 2005, amongst many others). While acknowledging the external constraints on organising arising from the context in which unions are acting, there is little doubt that the activities of unions themselves have an impact on membership levels. One way in which unions are seeking to increase membership is by engaging with new groups of workers.

Heery et al (2001) note two types of diversity that unions must confront to adapt to the needs of the changing workforce. The first embraces diverse social identities based on age, gender, ethnicity, sexual orientation, or disability. The second is based on differences arising from different types of employment relationship. Agency workers are one type of atypical worker. They do not conform to the norm of open ended, full time work for a single employer; their employment relationship sets them apart from their permanently employed colleagues. They pose particular challenges of representation because they deviate from the norm both in respect of their average length of their tenure and the fact that they have two employers.

There are a variety of environmental conditions that affect union organising. Many of these are beyond the control of trade unions, such as the level of inflation and unemployment. National industrial relations and employment legislation is another environmental factor (Freeman and Pelletier, 1990); however it is one that can have a different effect on different groups of workers with different degrees of employment protection. The introduction of new legislation can act as a lever for bargaining (Gall

2004) and new rights for different categories of workers can offer trade unions new opportunities to engage with these groups (Simms 2005).

While trade unions do not have direct control over the enactment of legislation, they are a powerful lobbying voice at national and EU levels. For a number of years many UK trade unions (including Unison, Unite, CWU, PCS) have lobbied for legislation to protect agency workers, and this culminated in the recent national agreement between the UK Labour Government, the CBI and the TUC.

Unison (amongst other trade unions) has been a powerful political voice for agency workers pressuring the government to legislate to offer these workers additional employment protection. It has identified the difficulties posed with effectively recruiting and representing these workers and appears to have chosen a strategy of political lobbying. For some of the most vulnerable agency workers, changes in legislation may bring about more significant improvements in their working lives than workplace bargaining. In the UK agency workers earn less than the average worker and so it is likely that the introduction of and subsequent increases in the minimum wage have affected proportionally more of these workers than those who are permanently employed. The introduction of a minimum of twenty days paid holiday (soon to be twenty four days including four days of public holidays) in the working time regulations is also likely to have a disproportionate impact on agency workers who prior to their introduction may not have been paid for holiday at all. Because some agency workers experience very poor conditions of work minimum standards that apply to all workers may improve their situation relative to other groups of workers. If the agency sector is dominated by a large number of small agencies it may be difficult for trade unions to

tackle agency work via collective bargaining. Political lobbying for basic rights and further improvements to the minimum wage, ending the opt out of the working time directive and increasing the level of paid holiday, coupled with information about rights at work for agency workers like the TUC's (2004) 'working on the edge' campaign, may prove more effective at improving the working lives of agency workers than attempting to collectively bargain for improvements to their terms and conditions or to represent them on individual problems.

Heery et al (2005) recognise the difficulty for agency workers in relying on union organisation in the user employer; in the main this difficulty stems from the workplace unions focus on its directly employed staff and the primacy of their needs. Representation may be offered, but in many cases it is to ensure that agency workers do not undercut permanently employed staff. The impending introduction of equal treatment legislation is likely to align the interests of agency workers and permanently employed staff much more closely as collective agreements apply to both groups once agency workers have served twelve weeks. While there are as yet no details of the proposed equal treatment legislation for agency workers it will cover the right to the same pay and holiday entitlement as workers engaged by a user organisation. It is not yet clear whether one or both employers will have responsibility for ensuring equality. This legislation reduces some of the problems outlined in Chapter 2 of unionising agency workers. Agency work, at least for workers in roles for over twelve weeks, will not undermine the conditions of permanently employed staff and create divisions within the workforce in that way. In the areas in which agency workers have the right to equal treatment they have interests in common with permanent colleagues. This is likely to increase social identification between agency workers and their permanent colleagues

and reduce divisions between these workers on the basis of their different employment status. If equal treatment legislation has the effect of reducing divisions between permanent and agency workers this is likely to enable them to see problems in collective terms more easily. The legislation is also likely to act as a lever for bargaining, giving unions the ability to challenge issues at the workplace with recourse to legislation if employers are unwilling to negotiate. While challenging issues at work for individual agency workers is likely to continue to be problematic unless they receive protection from arbitrary dismissal in response to raising issues, the changes accrued to date are likely to provide some stimulus for the unionisation of agency workers.

Those unions that have undertaken recruitment of agency workers appear to have done it in specific and similar circumstances, although the notable examples are CWU and PSU. In both cases, agency workers have been located together in call centre environments doing broadly similar work to their permanent counterparts. Unite also recruit agency workers. At interview a full time official referred to organising migrant agency workers that were machine operatives, again located together and doing broadly similar roles to their permanent counterparts. It appears likely that such workers would have a greater capacity for identifying with their agency and permanent colleagues because of these factors. TGWU have also undertaken unionisation of agency workers within Manpower and Adecco in line with recognition agreements with both agencies, though union density is low (Heery et al, 2005).

While indifference to the unionisation of agency workers at the workplace may be understandable in light of the small numbers involved, the limited resources available for organising, and the perception that little is possible at the workplace to improve their

situation, it may nonetheless have implications for union renewal. Chapter 2 laid out the composition of the agency workforce, one important factor was the relatively young age of agency workers. For many workers, agency work is used to enter the labour market, and the first contact that these young workers have with unions may be as agency workers. They may view the union's refusal to assist them when they are in the most vulnerable jobs with the greatest need for union support, often at the start of their careers, as a rejection of them. This may lead to disillusionment with the principles of trade unionism. For two of the workers interviewed joining the union was an integral part of getting a new job, and seeking out the union to join was something that they did very early in their employment, as they had in previous jobs. The rejection of them in this role is teaching them about being non-union, and about its implications. Such workers may learn to be non-union in a highly unionised environment and make future decisions about unionising based upon their experiences of union rejection. While it is clear that a small proportion of the labour market are currently agency workers, the role of agency work as a bridge to permanent employment means many workers use agency work to enter or re-enter the labour market rather than as a long-term option. Many workers are likely to take agency work at some point in their career, meaning that the unions position in respect of agency workers is likely to affect large numbers of workers at some point in their working lives.

Changes in legislation are likely to provide a lever for the unionisation of agency workers. The changes agreed but not yet implemented are likely to have a major impact on the ability of trade unions to recruit and represent these workers.

Conclusion

This thesis addressed a central question in industrial relations, namely how workers define their interests, and how they act upon them. It does so with reference to workers with an unusual triangular employment relationship. It begins by challenging the often portrayed view that agency workers are a homogeneous group, who in the absence of protective employment legislation are powerless to act. Rather this thesis presents a picture of agency workers as a heterogeneous group, many of which have different opportunities to act in response to grievances at work than their permanent counterparts. It discusses the variations between workers and the ways in which differences affect the experience of work and particularly the ability to voice problems at work, and the desire for voice and protection at work.

It has offered a review of the characterisations of agency workers and moved from binary concepts to a typology that provide a tool for categorising and analysing the experience of agency work in a more detail. Moving beyond the traditional view of job security it considers placement, post, employer and labour market security to offer a fuller explanation of the varied experience of job security for different agency workers. A more nuanced concept is presented, that allows for the diverse experiences of different agency workers to be understood.

This thesis has employed the framework offered by mobilisation theory to identify the areas in which the triangular employment relationship changes the opportunity to act in response to problems at work. It has recognised its impact on the ability of agency workers to move from dissatisfaction to injustice, to attribute injustice to an employer,

and to socially identify with other agency workers and/or their permanent colleagues. It went on to identify the ways in which different agency workers acted in response to problems at work, including particular reference to ways in which agency workers can act outside the standard exit/voice choice.

Empirically it offers a rare study of agency workers across the care workforce, many of whom are seldom offered the opportunity to voice their opinion of their working situation. The study offers insight into their experiences of work and the issues that they feel are relevant to them.

Agency work is a matter of public policy interest. Very recently an agreement was reached between the TUC, CBI and the UK government intended to offer agency workers the legal right to equal treatment with their permanent counterparts after twelve weeks in a post. There are ongoing discussions with the EU about whether the agreement reached will comply with the proposed directive on agency workers. This study offers some insight into the present confusion that exists around the employment status of agency workers and their management. It demonstrates that the current lack of employment protection makes it difficult for agency workers to challenge problems at the workplace, unless they are willing to exit the workplace employer if matters are not resolved. It offers insight into the likely implications of equal treatment legislation, but concludes that in the absence of protection from unfair dismissal some agency workers are likely to remain unable to act on problems at work.

The practitioner value of this research has been specific to the research sites. The research in this thesis offered both City and Met insight that allowed them to alter their

approach to agency workers. City asked for feedback on the management of agency workers. The feedback offered allowed the organisation to understand the inconsistency of management of these workers and issue guidance to managers. It also contributed to the production of the tender for an agency partner in administrative work and to the tender for a master/neutral vendor. Met asked for feedback on the reasons that agency workers agreed to move from agency work to permanent employment, and the reasons that they chose to remain agency workers. It was most interested in recruitment and retention of agency workers, and moving them to permanent contracts. Human Resources found the data from this research helpful in confirming their existing views on the flexibility offered by agency work. They used this data to strengthen and support their argument that offering permanent social workers the ability to change roles and teams, to have extended unpaid leave and to adjust their working hours would help to recruit more agency workers into permanent positions. Following the research the pilot of more flexible working practices was extended throughout the department.

For trade unions this research confirms that the triangular employment relationship that agency workers have with their dual employers presents a challenge to mobilisation. While it rejects the idea that agency workers are disinterested in unionising, it does recognise the way in which their precarious triangular employment relationship limits their ability to act and the difficulties involved in unionising this group of workers and improving their conditions of work. It supports the view that legislation is likely to be the most effective means of securing improvements in the working lives of agency workers, and that it is likely to provide a lever to unionisation.

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Appendices

Appendix A – Agency Worker Interview Schedule

Biographical Data

Name

Sex

Ethnicity

Age

Grade / job title

Length of time in job

Ft/pt

Employer

Work location

Union membership

How did you get your job?

Why did you decide to apply for an agency job?

Would you prefer an agency/temporary/permanent job?

If you are temporary or an agency worker do you think/hope that your role will lead to a permanent contract a) within your unit b) within another unit

Do you think that certain groups are more likely to be agency workers?

Do you think that you are paid the same as your permanent colleagues?

Do you have the same rights as permanent employees?

DO you have the same responsibilities as permanent employees?

Do you feel that you have the same status as permanent staff?

Are you treated in the same way as directly employed staff by colleagues and managers?

Do you think working as an agency worker affects your performance?

Do you receive the same training as permanent staff (where appropriate)

Have you ever considered raising any issue about your contract or any other aspects of your job? – do you know how you would go about this – do you think it would be feasible

Have you ever left a job because of a problem rather than trying to sort it out?

trade union

Have you been given the opportunity to join a trade union here? If so which union?

Do you think that Unison and TGWU approach agency workers differently?

If you are a union member how were you recruited?

Do you pay a reduced subscription?

What contact do you have with the union? (workplace representative, workplace meetings, branch meetings – do you think this is adequate?)

Do you think that the union could improve communications between themselves and agency workers? (special section ect?)

Do you think that the union would help you if you wanted to raise an issue about your

agency status?

What issues, if any, would you like the union to take up on behalf of agency workers

Would you consider becoming a representative?

What sort of things would encourage you to join a trade union

What sort of benefits do you think being a member of a union can offer?

Do you think they apply equally to both agency and perm workers?

Do you think that you would be more likely to join a union if you were a permanent worker?

Impact on home life

How secure do you think that your job is?

Do you feel being an agency worker has an impact on your home life?

Do you worry about your agency contract ending?

Are there any issues concerning your job that you think are important?

Questions	Theme	Associated Literature
Agency Workers		
How did you get your job? Why did you decide to apply for an agency job? Would you prefer an agency/temporary/permanent job? If you are temporary or an agency worker do you think/hope that your role will lead to a permanent contract a) within your unit b)within another unit	Heterogeneity	Voluntary / involuntary agency work Agency work as bridge and trap
Do you think that certain groups are more likely to be agency workers? Do you think that you are paid the same as your permanent colleagues? Do you have the same rights as permanent employees? Do you have the same responsibilities as permanent employees? Do you feel that you have the same status as permanent staff? Are you treated in the same way as directly employed staff by colleagues and managers? Do you think working as an agency worker affects your performance? Do you receive the same training as permanent staff (where appropriate)	Inside the triangular relationship and Heterogeneity	Voluntary / involuntary agency work Employee relations vs free agent
Have you ever considered raising any issue about your contract or any other aspects of your job? – do you know how you would go about this – do you think it would be feasible	Heterogeneity	Voice/exit Mobilisation theory

Have you ever left a job because of a problem rather than trying to sort it out?		
Have you been given the opportunity to join a trade union here? If so which union? Do you think that Unison and TGWU approach agency workers differently? If you are a union member how were you recruited? Do you pay a reduced subscription? What contact do you have with the union? (workplace representative, workplace meetings, branch meetings – do you think this is adequate?) Do you think that the union could improve communications between themselves and agency workers? (special section ect?)	Representative Voice	Reasons for joining and not joining unions Union renewal
Do you think that the union would help you if you wanted to raise an issue about your agency status? What issues, if any, would you like the union to take up on behalf of agency workers	Representative Voice	Union utility
Would you consider becoming a representative?	Representative Voice	
What sort of things would encourage you to join a trade union What sort of benefits do you think being a member of a union can offer? Do you think they apply equally to both agency and perm workers? Do you think that you would be more likely to join a union if you were a permanent worker?	Representative Voice Heterogeneity	Reasons for joining and not joining unions
How secure do you think that your job is? Do you feel being an agency worker has an impact on your home life? Do you worry about your agency contract ending?	Heterogeneity	Job Security
Are there any issues concerning your job that you think are important?		Open question

Appendix B – Manager Interview Schedule

Biographical Data

Name
Sex
Ethnicity
Age
Grade / job title
Length of time in job
Ft/pt
Employer
Work location
Union membership

Statistical information

How many workers in your department are agency workers - %
Which Jobs? Professional/manual/administrative/care
Average tenure
How does this compare to 5/10 years ago

Deciding how to use agency workers

Who decides when it is appropriate to employ an agency worker?
How is this decision made? – what criteria are used
Does the authority have a policy on when agency workers can be employed?
Do the trade union have a role in deciding?
Are agency workers used to cover for seconded staff?
Do agency workers cost more or less than directly employed / casual staff?
Are you confident that your agency staff have the appropriate level of skill? How do you police this?

Terms and conditions

How long are agency workers normally employed for (long or short-term?)
Are they normally made aware of the expected duration?
Are agency workers given the same training and access to internal vacancies as permanent staff?
What happens at the end of the agency contract?
Does the agency charge a fee for permanent placement?
Do you find that the same people are sent out by agencies for the same home/role repeatedly?

Management of agency workers

Have you encountered any problems with the use of agency staff? (recruitment, retention, management issues, legal, union opposition,)

What do you think the main benefits of using agency labour are?

What do you think the main disadvantages of using agency labour?

Do you see the use of agency labour increasing or decreasing?

How are agency workers managed?

Are they managed in accordance with council or agency policies?

If an agency worker had a problem at work either with a colleague or manager who would they speak to?

Does the council do exit interviews?

Do these apply to agency workers?

Do agencies make contact when their workers have problems at work?

Can you give me an example of an issue that has been brought to you by an agency worker?

Do you think that there is a difference between agency and perm staff in how their issues are treated?

Questions	Theme	Associated Literature
Manager		
How many workers in your department are agency workers - % Which Jobs? Professional/manual/administrative/care Average tenure How does this compare to 5/10 years ago	Inside the triangular relationship	Demographic info
Who decides when it is appropriate to employ an agency worker? How is this decision made? – what criteria are used Does the authority have a policy on when agency workers can be employed? Do the trade union have a role in deciding? Are agency workers used to cover for seconded staff? Do agency workers cost more or less than directly employed / casual staff? Are you confident that your agency staff have the appropriate level of skill? How do you police this?	Inside the triangular relationship	Fragmented work
How long are agency workers normally employed for (long or short-term?) Are they normally made aware of the expected duration? Are agency workers given the same training and access to internal vacancies as permanent staff? What happens at the end of the agency contract?	Inside the triangular relationship	Fragmented work

<p>Does the agency charge a fee for permanent placement? Do you find that the same people are sent out by agencies for the same home/role repeatedly?</p>		
<p>Have you encountered any problems with the use of agency staff? (recruitment, retention, management issues, legal, union opposition,) What do you think the main benefits of using agency labour are? What do you think the main disadvantages of using agency labour? Do you see the use of agency labour increasing or decreasing?</p>	<p>Inside the triangular relationship</p>	<p>Reasons for using agency workers Legal status</p>
<p>How are agency workers managed? Are they managed in accordance with council or agency policies? If an agency worker had a problem at work either with a colleague or manager who would they speak to? Does the council do exit interviews? Do these apply to agency workers? Do agencies make contact when their workers have problems at work? Can you give me an example of an issue that has been brought to you by an agency worker? Do you think that there is a difference between agency and perm staff in how their issues are treated?</p>	<p>Inside the triangular relationship</p>	<p>Fragmented work</p>

Appendix C – Trade Union interview schedule

1) Background data

Name:

Area covered: National, Social workers

Number of employees covered:

Unionisation %

Typical membership (what does a typical member look like in terms of age, tenure, hours of work, gender)

Number of members

2) Agency workers

How many of your members are agency workers?

Have you seen a change in how much Temporary Agency workers are used over the last 5 years?

What jobs are they mainly used for? (qualified, unqualified?)

Why do you think that people choose to undertake agency work?

Are agency workers often made permanent employees or are they simply used for cover?

Are roles normally short term or long term?

Do you think that certain groups are more likely to be agency workers?

Do they have the same rights as permanent employees?

DO they have the same responsibilities as permanent employees?

Do you feel that they have the same status as permanent staff?

Are they treated in the same way as directly employed staff by colleagues and managers?

Are they managed differently to other staff members?

Do you have a general policy of trying to limit the use of agency workers?

3) Trade Union

Are agency workers able to join?

Do you approach agency workers differently?

Can you actually represent agency workers?

In what areas are you able to represent agency workers and to whom? (IE employment issues or professional indemnity)

Have you ever raised an individual issue that has been brought to you by an agency worker?

Do you have more difficulty representing Temps than other workers?

Do you have any relationship with the agencies that supply local authority?

Which agencies?

What sort of relationship?

Do you have a contact?

Do you engage in collective bargaining with agencies?

Do you represent these workers as well as standard employees?

4) Critical incident:

Have you had any requests for representation by agency workers?
 What sorts of issues, can you give me some examples?

Questions	Theme	Associated Literature
Trade Union		
How many of your members are agency workers? Have you seen a change in how much Temporary Agency workers are used over the last 5 years? What jobs are they mainly used for? (qualified, unqualified?)	Representative voice	Atypical workers and union density
Why do you think that people choose to undertake agency work?	Heterogeneity	
Are agency workers often made permanent employees or are they simply used for cover ect? Are roles normally short term or long term? Do you think that certain groups are more likely to be agency workers?	Heterogeneity	
Do they have the same rights as permanent employees? Do they have the same responsibilities as permanent employees? Do you feel that they have the same status as permanent staff? Are they treated in the same way as directly employed staff by colleagues and managers? Are they managed differently to other staff members?	Representative voice	Legal status, Atypical workers and union representation
Do you have a general policy of trying to limit the use of agency workers? Are agency workers able to join? Do you approach agency workers differently? Can you actually represent agency workers? In what areas are you able to represent agency workers and to whom? (IE employment issues or professional indemnity)	Representative voice	Union response to agency workers
Have you ever raised an individual issue that has been brought to you by an agency worker? Do you have more difficulty representing agency workers than other workers?	Representative voice	Legal status, Atypical workers and union representation
Do you have any relationship with the agencies that supply local authority?	Representative voice	Union response to agency workers

<p>Which agencies? What sort of relationship? Do you have a contact? Do you engage in collective bargaining with agencies? Do you represent these workers as well as standard employees?</p>		
<p>Have you had any requests for representation by agency workers? What sorts of issues, can you give me some examples?</p>	<p>Representative voice</p>	<p>Union response to agency workers Union representation</p>

Appendix D – Questionnaire For Agency Workers

Section 1 - Job Characteristics

(Please tick)

1a) I work	Full Time <input type="checkbox"/> Part Time <input type="checkbox"/>	b) Length of service with the council	Under 6 months <input type="checkbox"/> Under 1 year <input type="checkbox"/> 1-5 years <input type="checkbox"/> 5 years + <input type="checkbox"/>
c) how long have you been working in your current role	Under 6 months <input type="checkbox"/> Under 1 year <input type="checkbox"/> 1-5 years <input type="checkbox"/> 5 years + <input type="checkbox"/>	d) Length of service with the agency?	Under 6 months <input type="checkbox"/> Under 1 year <input type="checkbox"/> 1-5 years <input type="checkbox"/> 5 years + <input type="checkbox"/>
e) Job Type	Administrative <input type="checkbox"/> Care <input type="checkbox"/> Manual <input type="checkbox"/> Social work <input type="checkbox"/> Managerial <input type="checkbox"/>	f) Job Title:	Social Worker
g) Who do you think of as your employer?	Council <input type="checkbox"/> Agency <input type="checkbox"/> Both <input type="checkbox"/>		

Section 2 – What you think

2) I am currently doing agency work because: (please tick one)	
I find working through an agency gives me more flexibility over my hours	<input type="checkbox"/>
I prefer the work that the agency can offer me	<input type="checkbox"/>
I like the variety of agency work	<input type="checkbox"/>
The pay is better	<input type="checkbox"/>
I was unable to find a permanent job	<input type="checkbox"/>
I hope it will lead to a permanent job with the council	<input type="checkbox"/>
I hope that it will help me to get a permanent job elsewhere	<input type="checkbox"/>
It's the only way that I could get experience	<input type="checkbox"/>
It fits in the best with my partners job	<input type="checkbox"/>
Other (Please specify)	<input type="checkbox"/>

3) If I had a problem at the council I would: (please tick one)	
Tell my manager at the council and ask them to sort it out	<input type="checkbox"/>
Approach the agency for their help	<input type="checkbox"/>
Ask the Trade Union to help me	<input type="checkbox"/>
Join the Trade Union and then ask for help	<input type="checkbox"/>
Leave and find a new job	<input type="checkbox"/>
Start looking for a new job and leave if I found one	<input type="checkbox"/>
Put up with it	<input type="checkbox"/>
Other (please specify)	<input type="checkbox"/>

Your views on work	Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
4) Management will always try to get the better of employees if they get the chance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5) I am dissatisfied with my conditions of work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6) I am confident that grievances at work would be sorted out by my manager at the council	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7) I feel that I am adequately paid for the job that I do	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8) On the whole I am satisfied with my job	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9) I feel that I work for a fair council	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10)The people that I work with are generally satisfied with their jobs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11)My manager at the council listens to my views	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12)The council listens to my views	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13)It would be easier to leave than sort out a workplace grievance at the council	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14)I feel my job is secure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15)I enjoy the flexibility that working through an agency gives me	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16)I would rather work for the council directly than though an agency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17)If I have a problem at work the agency will sort it out with my employer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18)I am in regular contact with my agency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19)I am unhappy about working though an agency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20)I have significant influence over what happens in my area of work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21)I feel like “part of the family” at my workplace	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22)I can decide on my own how to go about doing my work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
23)I feel a strong sense of belonging to my workplace	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24)The work I do is very important to me	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Your views on unions		Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
25) Employees need strong trade unions to protect their interests		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26) Unions do a good job of looking after their members at my workplace		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
27) Unions represent all workers equally well		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
28) Trade unions do not have the power to change things where I work		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
29) Management are supportive of people at my workplace joining a trade union		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
30) I know how to contact a trade union representative at my workplace		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
31) It is easy to join a trade union at my workplace		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32) Trade Unions at my workplace are able to improve my pay		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
33) There are advantages to being a trade union member		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
34) Being a trade union member would be a problem for me in my workplace		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
35) Unions represent workers like me well		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
36) Unions take notice of members problems and complaints		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
37) Unions are taken seriously by management		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
38) Unions make a difference to what its like at work		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
39) Unions only represent permanent staff so there is no point in joining		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
40) The agency wouldn't offer me work in future if they knew I was a union member		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
41) Unions can't help agency workers		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
42) Agency workers don't need unions		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
43) Are you a trade Union member		If yes go to page 4 If no go to page 5					

Section 3 – Union Members

44) Which trade union are you a member of? (Please tick)	
Unison	<input type="checkbox"/>
GMB	<input type="checkbox"/>
TGWU	<input type="checkbox"/>
BASW	<input type="checkbox"/>
Other (please specify)	<input type="checkbox"/>

45) How long have you been a trade union member? 6 years

46) Have you joined the trade union since becoming an agency worker?

47) Did you retain your union membership from a previous permanent position?

48) Why did you join your trade union? (Please explain)	
Unfairly treated by a Manager.	
(Please tick the option below that is closest to why you joined or rank if more than one apply)	
Support if I had a problem at work	<input type="checkbox"/>
Improved pay and conditions	<input type="checkbox"/>
Because I believe in Trade Unions	<input type="checkbox"/>
Most people at work are members	<input type="checkbox"/>
To gain access to training and education	<input type="checkbox"/>
Because of the financial services offered	<input type="checkbox"/>
Because of the professional services offered	<input type="checkbox"/>
Joined following incident at work	<input type="checkbox"/>
Other (Please specify)	<input type="checkbox"/>

49) How did you join? (please tick one)	
I was contacted by the union at work	<input type="checkbox"/>
I was contacted by the trade union by some other route	<input type="checkbox"/>
I contacted the Trade Union	<input type="checkbox"/>
I was informed by manager that I should join	<input type="checkbox"/>
The agency suggested that I should join a Trade Union	<input type="checkbox"/>
Recommended by friend / colleague	<input type="checkbox"/>
Other (Please specify)	<input type="checkbox"/>

50) Have you been actively involved in the Trade Union?

If so please briefly describe the activities undertaken:

Go to Section 5 (pg 6)

Section 4 – non union members

51) Have you ever been a Trade Union member?

52) If you have been then why are you no longer a member?

53) Have you ever been asked to join a trade union?

54) If asked would you join a trade union?

55) Why haven't you joined a Trade Union? (please tick one or rank if more than one applies)	
I have not been asked to join	<input type="checkbox"/>
Most of my colleagues are not members	<input type="checkbox"/>
Union subscriptions are too expensive	<input type="checkbox"/>
In principle, I would not join a union	<input type="checkbox"/>
Joining a union could affect my employment here	<input type="checkbox"/>
Unions support the labour party	<input type="checkbox"/>
Unions cannot help agency workers	<input type="checkbox"/>
Unions do not improve my workplace	<input type="checkbox"/>
Unions are no use to me	<input type="checkbox"/>
Unions are unnecessary	<input type="checkbox"/>
Other (Please specify)	<input type="checkbox"/>

56) How do you think a trade union could encourage you to join?

Section 5 – Final thoughts

57) Have you ever had a problem or grievance at a workplace while you have been an agency worker?

If yes please describe what it was and how it was resolved

Taken off a case due to a complaint from a service user.

59) The answers to the following questions will be used to explore differences between groups and will not be used to identify individuals.

a) Age group	Under 25 <input type="checkbox"/> 26-50 <input type="checkbox"/> Over 50 <input type="checkbox"/>	b) Do you consider yourself to be disabled?	Yes <input type="checkbox"/> No <input type="checkbox"/>
c) Gender	Male <input type="checkbox"/> Female <input type="checkbox"/>	Do you have children under 16 living with you?	Yes <input type="checkbox"/> No <input type="checkbox"/>
e) Ethnic Origin	White UK		
d) Marital status			

I am interested in talking to people about their views, if you are willing to talk to me please put your name and contact details below.

Name: (If you wish to speak to me please contact me via e.mail initially)

Phone number:

E-Mail:

Work Location:

Appendix E – Questionnaire for Directly Employed Staff

Section 1 - Job Characteristics

(Please tick)

1a) I work	Full Time <input type="checkbox"/> Part Time <input type="checkbox"/>	b) Length of service with the council	Under 6 months <input type="checkbox"/> Under 1 year <input type="checkbox"/> 1-5 years <input type="checkbox"/> 5 years + <input type="checkbox"/>
c) how long have you been working in your current role	Under 6 months <input type="checkbox"/> Under 1 year <input type="checkbox"/> 1-5 years <input type="checkbox"/> 5 years + <input type="checkbox"/>	d) Is your contract	Permanent <input type="checkbox"/> (open ended) Temporary <input type="checkbox"/> (for a fixed term)
e) Job Type	Administrative <input type="checkbox"/> Care <input type="checkbox"/> Manual <input type="checkbox"/> Social work <input type="checkbox"/> Managerial <input type="checkbox"/>	f) Job Title:	
g) Have you worked through an agency in the last 5 years?		h) Have you worked as a casual worker in the last 5 years?	

Section 2 – What you think

2) If I had a problem at the council I would: (please tick one)	
Tell my manager at the council and ask them to sort it out	<input type="checkbox"/>
Ask the Trade Union to help me	<input type="checkbox"/>
Join the Trade Union and then ask for help	<input type="checkbox"/>
Leave and find a new job	<input type="checkbox"/>
Start looking for a new job and leave if I found one	<input type="checkbox"/>
Put up with it	<input type="checkbox"/>
Other (please specify)	<input type="checkbox"/>

Your views on work	Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
3) Management will always try to get the better of employees if they get the chance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4) I am dissatisfied with my conditions of work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5) I am confident that grievances at work would be sorted out by my manager at the council	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6) I feel that I am adequately paid for the job that I do	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7) On the whole I am satisfied with my job	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8) I feel that I work for a fair council	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9) The people that I work with are generally satisfied with their jobs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10) My manager at the council listens to my views	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11) The council listens to my views	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12) It would be easier to leave than sort out a workplace grievance at the council	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13) I feel my job is secure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14) I have significant influence over what happens in my area of work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15) I feel like “part of the family” at my workplace	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16) I can decide on my own how to go about doing my work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17) I feel a strong sense of belonging to my workplace	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18) The work I do is very important to me	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Your views on unions	Strongly Agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	Don't know
19) Employees need strong trade unions to protect their interests	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20) Unions do a good job of looking after their members at my workplace	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21) Unions represent all workers equally well	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22) Trade unions do not have the power to change things where I work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
23) Management are supportive of people at my workplace joining a trade union	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24) I know how to contact a trade union representative at my workplace	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
25) It is easy to join a trade union at my workplace	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26) Trade Unions at my workplace are able to improve my pay	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
27) There are advantages to being a trade union member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
28) Being a trade union member would be a problem for me in my workplace	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
29) Unions represent workers like me well	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
30) Unions take notice of members problems and complaints	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
31) Unions are taken seriously by management	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32) Unions make a difference to what its like at work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

33) Are you a trade Union member		If yes go to page 4 If no go to page 5
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Section 3 – Union Members

34) Which trade union are you a member of? (Please tick)	
Unison	<input type="checkbox"/>
GMB	<input type="checkbox"/>
TGWU	<input type="checkbox"/>
BASW	<input type="checkbox"/>
Other (please specify)	<input type="checkbox"/>

35) How long have you been a trade union member?

36) Why did you join your trade union? (Please explain)	
(Please tick the option below that is closest to why you joined or rank if more than one apply)	
Support if I had a problem at work	<input type="checkbox"/>
Improved pay and conditions	<input type="checkbox"/>
Because I believe in Trade Unions	<input type="checkbox"/>
Most people at work are members	<input type="checkbox"/>
To gain access to training and education	<input type="checkbox"/>
Because of the financial services offered	<input type="checkbox"/>
Because of the professional services offered	<input type="checkbox"/>
Joined following incident at work	<input type="checkbox"/>
Other (Please specify)	<input type="checkbox"/>

37) How did you join? (please tick one)	
I was contacted by the union at work	<input type="checkbox"/>
I was contacted by the trade union by some other route	<input type="checkbox"/>
I contacted the Trade Union	<input type="checkbox"/>
I was informed by manager that I should join	<input type="checkbox"/>
Recommended by friend / colleague	<input type="checkbox"/>
Other (Please specify)	<input type="checkbox"/>

**38) Have you been actively involved in the Trade Union? No
If so please briefly describe the activities undertaken:**

Go to Section 5 (pg 6)

Section 4 – non union members

39) Have you ever been a Trade Union member?

40) If you have been then why are you no longer a member?

41) Have you ever been asked to join a trade union?

42) If asked would you join a trade union?

43) Why haven't you joined a Trade Union? (please tick one or rank if more than one applies)	
I have not been asked to join	<input type="checkbox"/>
Most of my colleagues are not members	<input type="checkbox"/>
Union subscriptions are too expensive	<input type="checkbox"/>
In principle, I would not join a union	<input type="checkbox"/>
Joining a union could affect my employment here	<input type="checkbox"/>
Unions support the labour party	<input type="checkbox"/>
Unions do not improve my workplace	<input type="checkbox"/>
Unions are no use to me	<input type="checkbox"/>
Unions are unnecessary	<input type="checkbox"/>
Other (Please specify)	<input type="checkbox"/>

44) How do you think a trade union could encourage you to join?

Section 5 – Final thoughts

45) Have had a problem or grievance at work in the last 5 years?

If yes please describe what it was and how it was resolved

46) Please rank in order (1 highest and 12 lowest or Not a priority or Don't know) what you think the most important priorities are for a trade union should be and what you believe the priorities of the union at your workplace are.

	Your Priorities	Workplace union's priorities
Improving pay	--	--
Securing pensions	--	--
Improving gender and race equality	--	--
Ensuring equal treatment for full time and part time workers	--	--
Ensuring equal treatment for agency workers and permanent staff	--	--
Increasing Job Security	--	--
Tackling low pay	--	--
Opposing privatization and outsourcing	--	--
Improving health and safety	--	--
Political lobbying	--	--
Representing members at the workplace on individual issues	--	--
Working with the council to ensure fair policies and procedures	--	--

47) The answers to the following questions will be used to explore differences between groups and will not be used to identify individuals.

a) Age group	Under 25 <input type="checkbox"/> 26-50 <input type="checkbox"/> Over 50 <input type="checkbox"/>	b) Do you consider yourself to be disabled?	Yes <input type="checkbox"/> No <input type="checkbox"/>
c) Gender	Male <input type="checkbox"/> Female <input type="checkbox"/>	Do you have children under 16 living with you?	Yes <input type="checkbox"/> No <input type="checkbox"/>
e) Ethnic Origin			
d) Marital status			

I am interested in talking to people about their views, if you are willing to talk to me please put your name and contact details below.

Name:

Phone number:

E-Mail:

Work Location: