

2ND EDITION

THE PROFESSIONAL RECRUITER'S HANDBOOK

DELIVERING EXCELLENCE IN RECRUITMENT PRACTICE



**JANE NEWELL BROWN
& ANN SWAIN**



SECOND EDITION



The Professional Recruiter's Handbook

Delivering
excellence in
recruitment
practice

Jane Newell Brown
and Ann Swain



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ACRONYMS

AESC	Association of Executive Search Consultants
APSCo	Association of Professional Staffing Companies
ASA	American Staffing Association
Ciett	International Confederation of Employment Agencies
CIPD	Chartered Institute of Personnel and Development
CRM	customer relationship management
CSR	corporate social responsibility
CV	curriculum vitae
HRO	Human Resource outsourcing
ITT	invitation to tender
KPI	key performance indicator
KSP	key selling point
MSC	managed service company
MSP	managed service provider
MV	master vendor
NHS	National Health Service
PDP	personal development plan
PESTLEC	Political, Economic, Sociological, Technological, Legal, Environmental, Cultural
PSL	preferred supplier list
REC	Recruitment and Employment Confederation
REQ candidate	one who matches requirements from an existing client (cf SPEQ)
RPO	recruitment process outsourcing
SLA	service level agreement
SMART(ER)	Specific, Measurable, Agreed, Realistic, Time Bound (Enjoyable, Recorded)
SPEQ candidate	likely to be attractive to clients, but without a specific requested role (cf REQ)
SWOT	Strengths, Weaknesses, Opportunities, Threats
TAWD	Temporary Agency Workers Directive
USP	unique selling point

Introduction

Real success is finding your lifework in the work that you love. **DAVID MCCULLOUGH, US BIOGRAPHER AND HISTORIAN**

This is a book for professional recruiters. Recruiters who love the job they do. Recruiters may get frustrated with their job, stressed by it, need a break from it at times, but ultimately are fascinated and driven by it and its rewards and want to keep on getting better and learning more from it.

Since the first edition of this book was published recruitment has undergone enormous change; perhaps more change has taken place in the last five-plus years than took place in the preceding 25. This has been coupled with a shift in the economic power bases in the global economy, the rise of emerging markets and the reach for talent becoming more global.

Changes in recruitment have therefore taken several forms but perhaps one of the most notable is the continued growth of internal recruitment expertise residing within organizations, rather than being supplied in externally. This is true both of UK markets especially but also in emerging markets. The shift has enabled organizations to drive down some costs of recruitment, which has been a benefit in turbulent economic times – although the need for strong specialist suppliers into those teams is unlikely ever to disappear, as no internal recruiter will have the expertise to cover all business-critical hires in their organization. The continued rise of the RPO (Recruitment Process Outsourcing) and MSP (Managed Service Provider) business models are also prevalent although it seemingly proves difficult to get the service right as the same number of agreements are procured each year as they are returned to an in-house model.

The other dramatic change has been the rise in use of social networking, which was in its infancy when the first edition of this book was written. It is now gaining pace as a key strategy in the attraction of top talent. Relatively speaking it is still in its infancy as whilst there is an awareness of how it might help in engaging future employees it's currently being used by most at a very basic level. Few businesses have developed strategies around it as a tool in their attraction plans and herein lies a real opportunity. Despite the backdrop of global economic challenges this top talent still remains an elusive animal.

Fifteen years ago McKinsey conducted a survey throughout 56 companies in the US and identified 'The War for Talent'. In 2000 this was updated and it was found that, despite the economic slowdowns, the war for talent was simply intensifying.

The success of any organization in a knowledge-based economy is increasingly dependent upon the quality of the people they are able to attract, recruit and retain. Yet, it is still only recently that the crucial role the recruiting industry plays in enabling businesses to secure this important competitive advantage is becoming recognized and the management of talent being seen as an important professional discipline.

'Any organization that does not take recruitment seriously is cutting its own throat. It must be a top priority for any business,' says Steve Crabb, ex-Managing Editor of *Personnel Today* magazine and now an independent consultant. Some organizations are beginning to develop recruitment strategies and the rise of the role of Talent Directors in major organizations shows that businesses are beginning

to take the business of hiring and retaining top talent seriously. This is great news both for organizations and professional recruiters.

For many recruiters in-house or in external recruitment consultancies, there is still little practical help available on how to do a great job. Many recruiting organizations provide initial training on the recruitment process but there is rarely anything more detailed to refer to after the training event. Tips and advice can be picked up from more experienced consultants 'on the job' but there has been to date no reference handbook, no guide and no structured 'how-to' book available. Furthermore, there has been no resource for managers to use with recruiters, new or experienced, to help them support a guided learning process of continued professional development.

This book provides practical guidance, best practice and the underpinning theory of best-practice recruitment. Each chapter is packed with case studies from a top recruiter or human resource professional in the recruitment industry so you can learn what works for both recruiters and their clients. Alongside both of these are suggested tasks you complete to support your own learning as you work your way through the book. You'll learn how to attract and approach new candidates and clients along with how to manage the recruitment process from start to finish to ensure success.

As recruitment remains a key tool for a business to achieve its corporate objectives, recruiters must continue to raise their game, delivering new and innovative solutions, but also just doing their job really well and professionally and achieving the results needed for their clients.

Who is this book for?

Potential recruiters interested in entering the industry or existing recruiters working in-house, as corporate recruiters, in a recruitment agency, a search consultancy or an MSP or RPO. One of the objectives of this book is to bring the debate amongst professional recruiters, regardless of role, close together to continue to develop and improve this great industry.

Rarely do internal and external recruiters see each other as symbiotic, although in fact the reverse is true. The authors hope that this book can show that both can learn from each other and help each other as, ultimately, both have the same aim: to recruit great people for their organizations and clients.

Recruitment managers can use the book to help their new recruits develop and understand the core skills to make them successful; recruitment trainers may want to use it to support their training and learning programmes; potential industry entrants may want to read it to give them a flavour of their possible new role; and we'd like to think that all new recruits to the profession would be given a copy as a reference book to become well-thumbed and dog-eared on their desk as they become more and more successful in this exciting industry, which can have its highs and lows but is never, ever dull!

How to use this book

The book has not been written for everyone to read from cover to cover as you might a novel – although it is also perfectly possible to read it that way. Its three parts each have a different purpose. The first part is an introduction into the profession. It puts the industry in context as well as looking at some future trends. This part deals with the ethical and legal aspects of the recruitment industry and, whilst it is not a guide to staying on the right side of the law, it does cover the legislation impacting the industry and considers the ethics that surrounds it.

The second part will be of interest if you are already in the industry and want to improve your strategic approach to business delivery, consider how to expand your market or improve the way you

work with your clients. It sets the scene for success, considering what type of recruiter you are, offering two possibilities and some thoughts as to how to make the most of your strengths. It outlines a new model of the recruitment process and uses a classic marketing-led approach to recruitment consultancy as a service. Working through the exercises in this chapter will enable you to take a strategic review of where you are in your recruitment business, where you want to be, and how to get there. Recruiters thinking of starting their own business, or business owners interested in developing their existing or new teams will also find this section valuable.

Part Three is an intensely practical 'how-to' section, detailing everything from how to win a tender to how to open a headhunting call, from how to interview to how to take and qualify a job brief. This is the section you'll have open at your desk when you make a call, the one you'll turn to when you have to prepare a pitch and the one that you can either read straight through or dip into when you need it. It looks in detail at each of the four aspects of the recruitment process as we have defined it. We have chosen not to go into great detail on basic telesales technique, which is covered in so many general sales books.

This book takes the view that a good recruiter is always looking ahead to the next economic cycle and the way the market shifts, in order to deliver the best possible service to their candidates and clients and achieve the best possible results for themselves. If you follow the advice and guidance in this book and overlay it with your own talents and personality, focusing on your strengths, a career in recruitment offers much.

PART ONE

The recruitment industry

The development of the recruitment industry

The Americans may claim that they invented the recruitment industry. After extensive research, however, we believe that the UK founded the earliest recruitment consultancy.

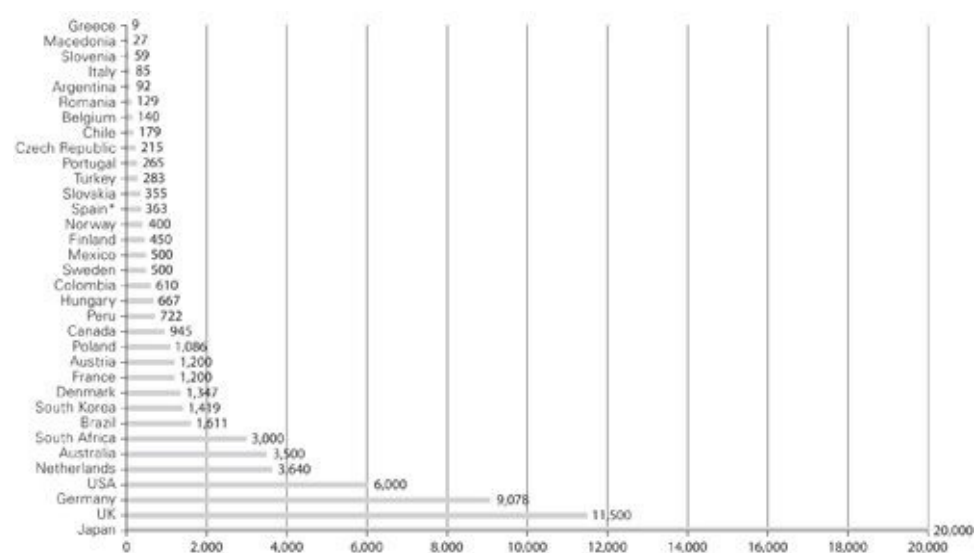
The Industrial Revolution during the late 18th and early 19th centuries saw major changes in the need to recruit relatively large numbers of employees to work in mechanized agriculture, manufacturing and transportation. The manual labour-based economy of Great Britain began to be replaced by one dominated by industry and machine-based manufacture. Over a period of around 70 years the effects spread across Western Europe and then to North America. With this demand for skilled employees a 'gang master' approach of recruitment provision was emerging. As the British economy grew, with it came the emergence of a 'middle class' and, with childhood mortality dropping dramatically, a desire for education.

In 1873 Mr John Gabbitas and his business partner Mr Thring formed Gabbitas, the first recorded recruitment company. Launched to provide teaching staff, and still thriving today as Gabbitas Educational Consultants, it included Evelyn Waugh, W H Auden, H G Wells, Sir Edward Elgar and S John Betjeman amongst its candidates. Other recruitment companies followed, providing domestic as well as factory workers, with Alfred Marks forming his iconic recruitment brand in 1919. Europe was slow to follow suit but the American staffing sector pushed ahead, with Fred Winslow opening his Engineering Agency in 1893 and Katharine Felton responding to the construction industry's problem in staffing building projects after the San Francisco earthquake in 1906. The end of the Second World War provided an opportunity for entrepreneurs to seek out the limited number of highly skilled, mainly male, individuals and match them with the huge demand for growth in both infrastructure and of course, business. An industry was launched.

The value of the recruitment industry

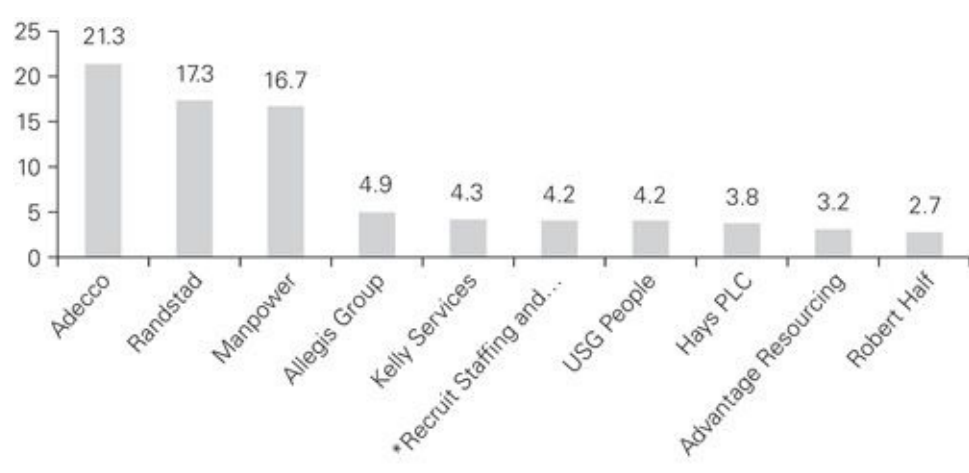
The global recruitment market is huge. In their 2011 report Ciett suggest that there are around 72,000 private recruitment companies, 169,000 individual branches employing 741,000 internal staff worldwide (see [Figure 1.1](#)). In 2009 the total global annual sales of the top 10 companies equated to 29 per cent of the world market (see [Figure 1.2](#)).

FIGURE 1.1 Number of private employment agencies



*figures for 2008; **ILO-Private employment agencies, temporary agency workers and their contribution to the labour market | 2008
 SOURCE Ciett, 2011 report

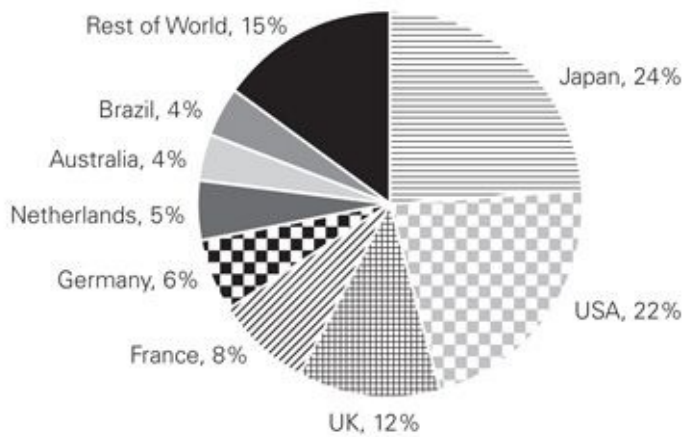
FIGURE 1.2 Top 10 staffing companies in billions of \$



SOURCE Staffing Industry Analysts 2009 – www.staffingindustry.com
 *Consolidated figures for Recruit Staffing and Staff Service

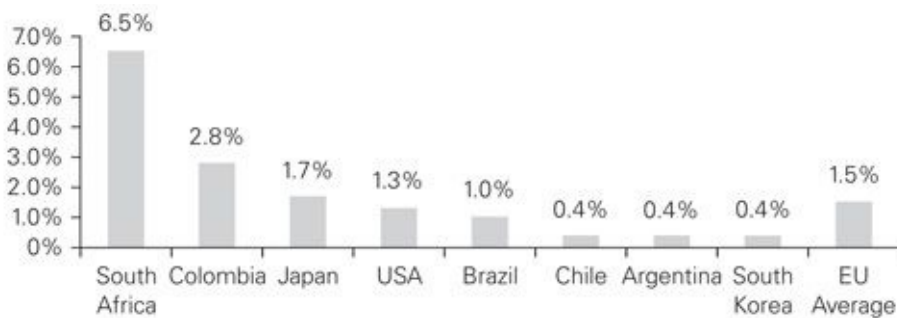
In 2009 Ciett found that there were 9 million full-time (or equivalent) temporary agency workers – a rise of over 3.8 million since 1999. Figures 1.3 and 1.4 respectively show the sales revenue splits per country and penetration rates outside Europe (2009) for agency work, while Figure 1.5 shows the penetration rates for agency work in Europe in 2009.

FIGURE 1.3 Agency work sales revenues split per country



SOURCE Ciett national

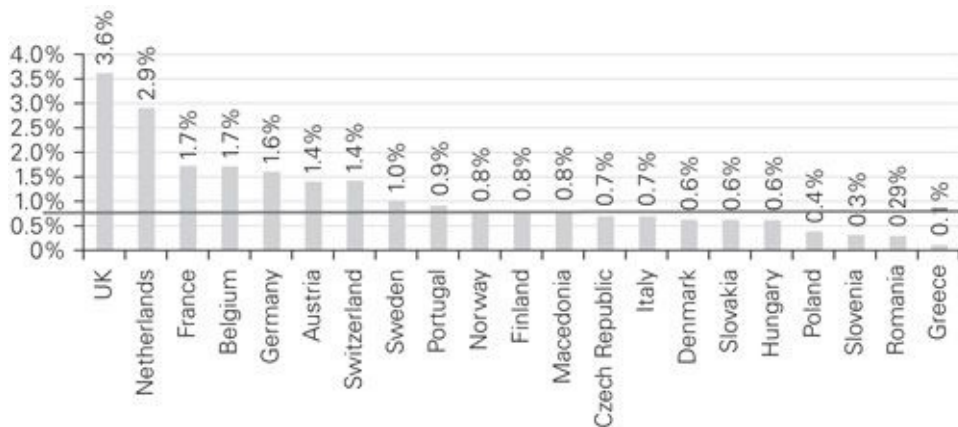
FIGURE 1.4 Agency work penetration rates outside Europe in 2009*



*Defined as the number of full-time equivalents – as supplied by Ciett National Federations – divided by the total active working populations – as published by the ILO

SOURCE Ciett, 2011 report

FIGURE 1.5 Agency work penetration rates in Europe in 2009*



*Defined as the number of full-time equivalents – as supplied by Ciett National Federations – divided by the total active working population – as published by the ILO

SOURCE Ciett, 2011 report

European average penetration rate: 1.5%

Although the recessionary period has slowed the uptake of temporary workers in many countries, relaxing of restrictive legislation in many has created the platform for growth. And indeed, why not?

- Temporary agency work broadens the range of work solutions available to candidates, facilitating transitions in the labour market. It creates opportunities for workers to match lifestyle changes

indeed, personal constraints.

- The use of temporary agency work has been shown to contribute to reducing unemployment by creating a stepping stone to the labour market. According to Ciett 2010, 3 per cent of temporary workers registered as 'unemployed' before embarking on their temporary role compared to 15 per cent, 12 months afterwards.
- Higher temporary worker penetration has shown to reduce the level of undeclared (and therefore untaxed) work within a country.
- Recruitment firms often provide training to their temporary workers, which add to the work experience gained and upgrades the national skill set.
- Recruitment companies have been shown to pursue a diversity agenda ahead of the government. When employers have a narrow view of their ideal candidate, it has been recruiters that have widened the person specification beyond age, creed or gender, changing the client's perspective of 'square pegs' and 'round holes'. Temporary agency work also provides an opportunity to enter the labour market for potentially vulnerable groups, eg migrant workers, female returners or disabled candidates.
- Unions often worry that temporary work is a substitute for permanent job creation and therefore have a negative view of the concept. Yet research has shown (continual Research Capitation) that 80 per cent would not have existed if no agency solution were available.
- Generally temporary roles are created to meet peaks in demand or to fill in for absent permanent employees.
- Ciett found that the average profile of a temporary agency worker is:
 - less than 30 years old (but ageing);
 - working within service, manufacturing or public sector;
 - motivated to temporary agency work by gaining work experience, to find a job or flexibility;
 - satisfied with their position;
 - do not want a permanent job.
- Recruiters have an extensive knowledge of local labour markets of special niche sectors.
- They advise on salaries, career paths or availability.
- They have access to extensive pools of both available workers and those passive candidates that do not apply to advertisements on job boards, are not turning up at job fairs and are not looking at corporate websites.
- They match the requirements of the client company to the needs of an individual and manage both expectations on each side of the recruitment process from start to completion.
- Recruiters select 'the one' from the thousands available and ensure that 'the one' recognizes the benefits of the opportunity.

The European recruitment market

Apart from the worldwide search companies, the majority of non-UK European recruitment businesses specialize in providing flexible workers. Around 2 per cent of the European workforce is temporary, with fairly mature markets found in Belgium, France, the Netherlands and, of course, the United

Kingdom. Germany, Spain and Italy are consolidating and, with recent entrants into the EU, new geographical markets are emerging. As it did within the United Kingdom, the European market is developing from providing low-skilled, mainly young males towards office-based, mainly young and female staff. It is easy to predict that the market will evolve further up the value chain over time, as the UK market has.

Highly restrictive legislation has stunted the market growth potential of some countries, and it is certainly fair to suggest that there is a level of distrust about the motivation for organizations to utilize flexible workers; indeed, there is a view that everyone would really rather be in a secure permanent job. The recruitment industry is increasingly becoming recognized as a legitimate player in the flexibility/security debate ('flexicurity' is a hot topic in Brussels) and there is an overall trend for labour market deregulation. However there are still too many misconceptions about our industry, with severe image problems particularly in the Southern European countries.

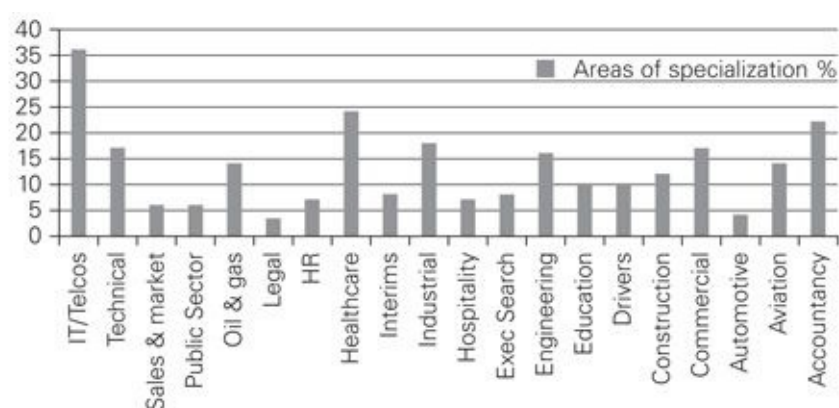
The UK recruitment industry

The UK recruitment sector has a combined turnover of around £27 billion. The largest 100 UK businesses in the market turn over around £16 billion. Providing an exact figure of the number of UK recruitment companies is difficult, due to lack of licensing, low barriers to entry and substantial labour movement, especially amongst single-operator businesses. However evidence suggests that there are around 10,500 recruitment businesses in the UK. There are approximately 120,500 recruitment industry professionals with over 8,100 owners and senior directors working in around 19,000 offices. Approximately 1.6 million temporary workers are on assignment each day, with over 750,000 candidates being placed in permanent jobs by recruitment consultants, each year (Recruitment International, 2011).

The structure of the industry

As with any service-driven market, the UK recruitment industry has developed a structure around the business opportunities. Figure 1.6 gives an overview of the UK workforce and the types of recruitment business that supplies to each area, from both a permanent and a temporary perspective.

FIGURE 1.6 Data on the UK recruitment industry



SOURCE Recruitment International 2011

Executive-level recruitment

Senior executives and company directors are a very small but important percentage of the workforce. There is often a shortage of good candidates at this level and as the role of such people within any business is key to its success, organizations do resort to recruiting individuals from direct competitors or 'like' companies. Although these high-calibre candidates may have valuable experience they are likely to be content in their current roles and therefore potentially difficult to find, interest, and motivate toward a new challenge, especially on terms acceptable to the potential employer. Executive search practices provide senior-level expertise, often on a global basis, for employers to acquire such high-level talent. Executive search practitioners specialize in recruiting the most senior individuals across a full range of private and public sector environments; search is the most proactive form of recruitment.

A flexible solution at this level is provided by 'interim' executives, placed on relatively medium-term assignments by interim management companies. A smaller or medium-sized business might need, for instance, to develop a detailed long-term marketing strategy, but then need a more junior and therefore more affordable marketing person to put the strategy into practice. An interim executive can be engaged for six months to create the strategy and the implementation can be undertaken by a permanent manager. Interim management is different from using external management consultants in that the interim executive is part of the team and assumes the responsibilities for delivery of a well-specified project. Interim management companies often specialize in niche sectors such as the public sector, marketing and finance. They may be joined to an executive search practice, but rarely operate on such a global basis as the executive search companies.

Middle to senior management

Middle to senior managers are generally recruited on a permanent basis rather than as flexible workers. The relationships with staff and the company-specific knowledge required to perform senior roles lend themselves toward long-term, internal employees. Historically, the method used to recruit these individuals was advertised selection. This is where a selection-based recruitment company, usually with a high profile in *The Sunday Times*, *Telegraph* or some more industry specific journal, such as *Computer Weekly* or *Accountancy Age*, would be retained to design, write and place an advertisement. Responses would be received, acknowledged and assessed by the recruitment company and a shortlist created. Interviews and sometimes assessment centres would be undertaken on behalf of the client, who would then be presented with three or four pre-screened candidates for second interview.

With the advent of online advertising this form of recruitment has diminished substantially although there is talk of a renaissance using the World Wide Web as an advertising medium, replacing paper-based journals.

Knowledge-based specialist and professional staff

Recruitment businesses in this area were quite generalist in nature until the salary levels of knowledge-based specialists in fields such as engineering, banking and IT, and the professions such as lawyers, doctors and teachers, along with roles such as marketing, finance and sales matched and overtook management ones. Specialist recruitment consultancies dominate this space, with the high-street chains often acquiring smaller niche players to get a 'foot in the door' of a new market.

Contractors take up the flexible-working aspect of the knowledge-based specialist market. They often have their own limited company or work through an umbrella company, maintaining a

'professional' distance from the end client and enabling taxation requirements to be managed. Contract recruitment businesses have shown huge growth over the past 10 years as more client organizations use a strategic approach to staffing. Bringing in specialist knowledge or skill sets on an 'as and when' basis creates superb staffing flexibility to cover peaks and troughs or development prospects and, although contractor rates are often twice that of a permanent individual, can be a very cost-effective option for the company.

'Workers'

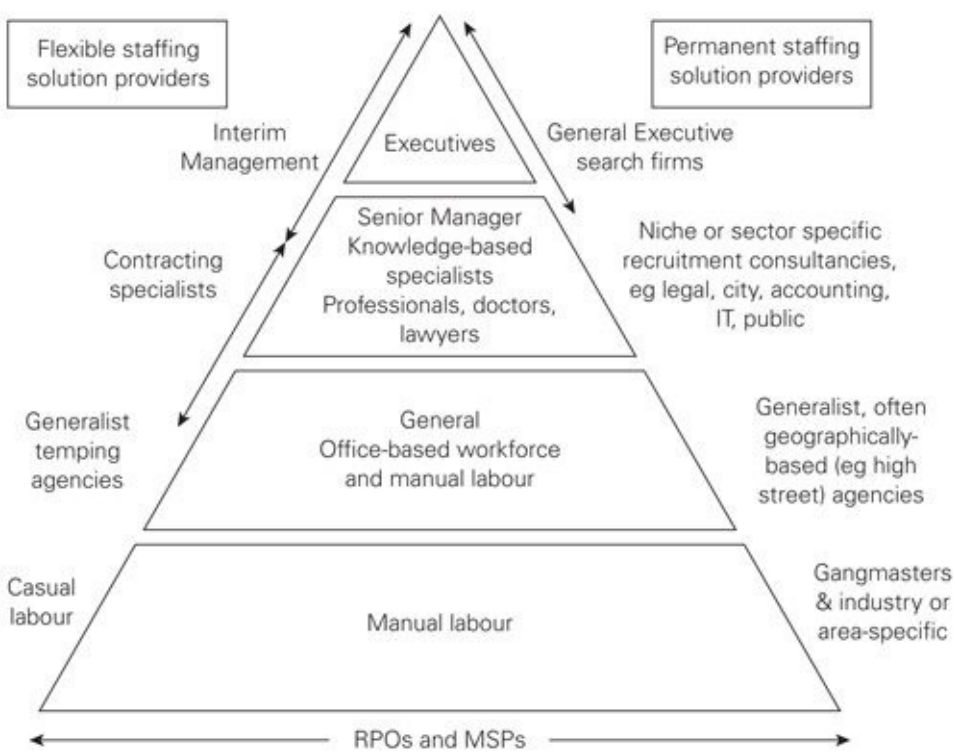
This sector covers most general office workers, as well as more junior candidates in the professions such as nursing and healthcare workers, higher-end catering professionals, salespeople and so on. These individuals are provided to potential employers on either a permanent or temporary basis by a mix of multi-branch recruitment businesses, often with niche divisions or smaller specialist recruitment companies, sometimes based around a clear geographical hub. Most of these companies provide a mix of permanent and temporary candidates, either with individual recruitment consultants covering all types of labour requirements for their clients or, in larger companies, with separate departments specializing in either temporary or permanent.

Unskilled labour

Generally the least well-paid end of the workforce is that of the unskilled worker. Here we can include entry-level jobs in a range of areas such as kitchen and waiting staff, care workers, retail staff, construction labourers, farm hands or fruit pickers and sanitation staff. Because of the potential seasonal nature of some work and the general lack of transferable knowledge needed, large numbers of temps have often been used. When more permanent members of staff are required the employer will often advertise directly to attract large numbers of available labour. The temp side of this sector is covered by the high-street agencies, while gang masters tend to recruit for and provide labour to agricultural organizations; specialist event recruiters are emerging who provide staffing for major events.

See [Figure 1.7](#) for an illustration of the breakdown of the labour market.

FIGURE 1.7 Labour market breakdown



A career in recruitment

Choosing a career in recruitment offers a range of superb career development opportunities. Entering the industry can be achieved in a variety of ways by a wide range of people and success is directly related to your core competences. Entry requirements can be low; you can start in the sector from a background in a specialist market sector (eg as an engineer) or from human resources or sales, or indeed straight from academia.

Full training is generally provided by your employer. Obviously some companies will provide more training than others, but it is universally accepted that the industry must develop the potential of 'right stuff' recruiters.

Success is entirely in your own hands. Very few careers provide the level of self-determination that recruitment has to offer. The choices that you make, how many hours you put in, how many calls you make and to what quality, how organized you are, all have a direct impact on your success and immediate earning potential.

In the recruitment industry we have the opportunity to affect the careers, and therefore, the lives of individuals, in an amazingly positive way. It is not uncommon to receive thank you notes or even gifts from grateful candidates!

As a quality recruiter you will gain unique access to your client base, which often provides you with a clear insight into corporate or public sector culture and even business methodologies, which can be a rewarding aspect for people interested in organizational development.

Industry suppliers

Service providers who can offer both flexible and permanent staffing resources can provide maybe three or four staffing solutions to one vacancy. They may offer an immediate short-term temp whilst they recruit a longer-term interim candidate followed by a longer-term more permanent hire, for whom they may also offer a comprehensive assessment service.

Flexible staffing

As discussed earlier the senior end of this sector is the interim staffing market, providing executive-level through to mid-range candidates. Interim candidates will either fill a gap left by short to mid-term absence through sickness or maternity leave perhaps, or a gap during a re-structure or whilst conducting a search for a permanent hire. In the middle of the market this can be a contractor service the bulk of which is serviced by the IT and financial services sectors, followed by low to mid-range roles serviced by the temp markets. Below this is the casual labour market, which may vary from an organization with a large number of students on its books to service a large catering event, to the construction trade. All of these sectors make up the flexible workforce in any country. Flexible working is becoming more and more a question of choice as flexible workers are often chosen for their interim career experiences of turn-around, and workers themselves are choosing a better work-life balance rather than a permanent nine-to-five job, perhaps working hard for six months then travelling for three.

All part-time workers are now protected by developments in law ensuring they receive the same employment rights and protection as comparable permanent and full-time employees. Recruitment consultancies often operate as employers with their temporary and contractor workforces, ensuring their clients do not need to worry about this aspect of employment and so adding further value as a supplier. Part of the casual labour market is now governed by the GLA (Gangmaster Licensing Authority), which was set up to curb the exploitation of workers in the agriculture, horticulture, shellfish gathering and associated processing and packaging industries.

Permanent staffing solutions

The permanent sector is made up of specialist and generalist providers. As the industry has evolved, suppliers have developed a core competence from senior candidates to localized resource provision. At the top end there are the top executive search firms, all of whom operate across a range of sectors globally in order to ensure a business that is immune to sector recession, but also to offer a wide set of expertise in moving candidates from sector to sector at 'C' level and above. Many search providers are now offering an interim service to complement their full search service. Attempts to offer a wide range of assessment and coaching (executive on-boarding [settling-in period] and then ongoing) services have met with mixed success in this sector. In the next tier down providers are niche or sector specific, offering mid-range executives across a specialist sector, backed up with excellent knowledge and expertise in their chosen field. Sectors such as the City, law, accountancy, IT, HR and marketing are represented in this way. Interestingly only 10 per cent of the UK population earn more than £46,000 (BBC, 2008) so the market for senior sector-specific staff is relatively small but rewarding. At the bottom of this sector, and where most of the candidates are (following the pyramid in [Figure 1.7](#)), is the generalist sector, often the high-street providers or local agencies providing local firms with local staff on both a temporary or permanent basis.

The choice of provider, then, is based on a relationship between volume and fees (the lower the salary as a rule the lower the fee for recruiting) and specialization and sector knowledge.

Recruitment procurement

As recruitment becomes more important to organizations, and takes up more time, businesses are often taking advantage of the option to outsource all of their staffing provision to a specialist RPO

(recruitment process outsourcing) provider.

An MSC (managed service company) or RPO aims to outsource the responsibility of the full recruitment process from one client. This puts the administrative responsibility firmly in the lap of the MSC and it is important, for the success of the relationship, that this is seen as a partnership rather than a pure supplier relationship on both sides. Typically the MSC will have recruiters on site and the client and contracts will be negotiated for three or more years with a six-month option to terminate. Some MSCs will be vendor neutral and others will be the RPO arm of a larger recruitment consultancy.

If one consultancy supplier has been very successful supplying staff across the organization, that business may consider a master vendor (MV) arrangement where the agency contracts to supply the vast majority of the staff at some cost benefit to the business, and fill the rest of the role through some specialist arrangement it makes itself with other suppliers. This leaves the administrative burden with the business and can leave it vulnerable if the MV cannot deliver, as it will have severed all other relationships. However it will dramatically reduce the amount of contacts the business has to deal with, and if it predominantly recruits a particular type of individual this can be a good choice.

Many organizations will run recruitment in-house and develop a PSL (preferred supplier list) to support the recruitment process. PSLs are usually a collection of agencies, often through a tiered or niche system, which are the sole suppliers of staffing into that organization or MSC. PSLs are usually created by a tender process and reviewed on an annual basis; selecting such an arrangement involves checking that a consultancy can supply the required staff, has ethics and values congruent with the organization, and has the right financial backing to enable them to deliver.

Temporary labour can be procured via e-auctions as it can be seen as a more commoditized service and therefore comparable to buying the supply of stationery or cars, for example. However, for organizations who place some value on the quality of their workforce, by necessity the e-auction route means that recruiters will be paring margins to the bone resulting in an inevitable reduction in service often not to generate greater profit but so that the operation may be commercially viable. The added value that a recruiter offers may then be reduced, so whilst e-auctioning is a method of securing labour supply it rarely attracts bidding from quality service providers.

Industry governance

Recruitment itself is becoming increasingly constrained by legal developments. Here we can also include customs, ethics, norms and best practice. [Figure 1.8](#) shows a timeline of legal developments that affect the recruitment industry. This should not be treated as an exhaustive list, but rather as a guideline to show the increased development of law affecting the industry – although others not shown here may also have considerable impacts.

FIGURE 1.8 Timeline of legal developments affecting the recruitment industry

2010	Equality Act 2010 Bribery Act 2010 Agency Workers Regulations 2010
2008	Pensions Act 2008 Proposed pension bill Proposed temporary agency workers directive
2007	Corporate manslaughter and corporate homicide act Finance act 'managed services companies' Money laundering regulations
2006	Employment equality (age) regulations Transfer of undertakings (protection of employment) regulations 'TUPE'
2003	Employment equality (sexual orientation) regulations Conduct of employment agencies and employment business regulations Employment equality (religion or belief) regulations
2002	Income Tax (earnings and pensions) Act 2003 The fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002
2000	
1999	National minimum wage regulations Sex discrimination (gender reassignment) regulations Contracts (rights of third parties) act
1998	Competition Act 1998 Data protection act Working time regulations
1995	Disability discrimination act
1990	
1980	
1976	Race relations act
1975	Sex discrimination act
1973	Employment agencies act
1971	Asylum and immigration act
1970	Equal pay act

Here we can also look briefly at how each of these Acts may affect the industry (see also [Figure 1.8](#)).

Legislation affecting the recruitment sector

This list contains details of most of the legislation directly affecting this sector. Naturally, nearly all legislation has some effect or other on any company and so this is not, and could not be, an exhaustive list.

- 1 *Employment Agencies Act 1973*. The key matter dealt with in this Act is the general prohibition (to which there are a few exceptions) on charging work seekers a fee for finding them work.
- 2 *Conduct of Employment Agencies and Employment Business Regulations 2003*. These 'Conduct Regulations' are notoriously complex. Key provisions include Regulation 10, which limits the ability of employment businesses to charge hirers 'temp to perm' and 'temp to temp' fees.

- 3 *Transfer of Undertakings (Protection of Employment) Regulations 2006* ('TUPE'). The TUPE regulations preserve employees' terms and conditions when a business or undertaking, or part of one (including an appointment as preferred supplier), is transferred to a new employer.
- 4 *Asylum and Immigration Act 1996 and Immigration Act 1971*. Recruiters must obviously not employ illegal workers themselves. Many recruiters are also expected to check the status of temps and contractors. Facilitating illegal working is a serious criminal offence.
- 5 *Working Time Regulations 1998*. These regulate the organization of working time, oblige employers to give temps paid holiday and also contain measures relating to the employment of children and young persons, affecting recruiters' employment of their own employees and their supply of agency workers to clients.
- 6 *Data Protection Act 1998*. This Act is intended to ensure that personal information is handled properly. The Act gives individuals the right to know what information is held about them and imposes criminal penalties on recruiters who use the information unlawfully.
- 7 *National Minimum Wage Regulations 1999*. These Regulations are designed to provide workers with minimum levels of pay, setting hourly rates below which pay must not be allowed to fall. Breach can be a criminal offence.
- 8 *Contracts (Rights of Third Parties) Act 1999*. This Act enables a person not party to a contract (a 'third party') to (in his or her own right) enforce a term of the contract under certain circumstances. This could have effect where, for example, pursuant to a contract between an agency and an end user, a worker is provided by the agency to the end user.
- 9 *Income Tax (Earnings and Pensions) Act 2003* (s44–47 – agency tax provisions) (formerly ICTA 1988 s34). Essentially the Act enables HMRC to collect the equivalent of PAYE and NIC from employment businesses in respect of workers who would not otherwise be 'employees' under the PAYE regime.
- 10 *Income Tax (Earnings and Pensions) Act 2003* ('IR35' – now part of ITEPA ss48–61). This 'IR35' legislation was designed to eliminate avoidance of income tax and National Insurance Contributions (NICs) through the use by contractors of intermediaries, such as personal service companies or partnerships, to avoid liability under the PAYE regime or ss44–47 ITEPA.
- 11 *Finance Act 2007 SCHEDULE 3 'Managed Service Companies'* (ss61A–I ITEPA). The legislation deems all payments received by a worker working through an MSC to be employment income. This means PAYE and, Class 1 National Insurance Contributions must be applied to all income received by individuals in MSCs for the services provided via the MSC. Most staffing companies are now familiar with the new regime and should have risk mitigation procedures in place with checklists and other measures. HMRC's latest guidelines confirm this.
- 12 *Money Laundering Regulations 2007*. These regulations impose on certain recruiters a strict obligation to carry out checks of their clients and adopt other procedures in order to help combat the criminal activity of money laundering.
- 13 *Criminal Records Bureau Regime*. Recruiters supplying workers to work with vulnerable people are expected to check with the Criminal Records Bureau (CRB) that they are suitable and do not have relevant criminal records.
- 14 *Proposed Pensions Bill 2008*. This bill is intended to allow moderate-to-low earners to save more for retirement. Providers of agency workers will be required to make minimum contributions. There may be exceptions.

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