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### Modernising regulations

# Rewrite law to reflect work trends



Employment law needs to be rewritten to reflect the varied ways people work and to clarify the rights and responsibilities of agencies and agency workers – however, we must not throw the baby out with the bathwater. This is what the REC's updated Manifesto for Growth will tell political parties as we head towards the next general election.

Given the importance of a healthy labour market to economic growth, we hope the REC's manifesto will be eagerly anticipated by the main political parties. They are already making announcements about how they intend to manage a modern workforce. Labour has published a New Deal for Workers and the Lib Dems have a Fair Deal, which calls on businesses to commit to promote skills, equality, good governance and support for local communities.

Agencies and agency workers are currently unclear about how flexible working is affected by the Working Time Regulations and Health and

Safety Regulations – especially since neither recognises agency workers. This complicates issues such as calculating holiday pay and managing health and safety at work.

"This confusion cannot continue when it impacts the rights of workers and hampers agencies' efforts to meet their clients' demands for a flexible workforce," said Shazia Ejaz, the REC's Director of Campaigns and Research. "We must nurture our world-class temporary workforce. We need laws that are relevant for all kinds of work. Every business wants less bureaucracy and more clarity – and agencies are no different."

There needs to be genuine two-way flexibility for both employer and employee, she added. "That's why it is important that all parties sign up to creating a Single Enforcement Body (SEB) that will give workers clarity about their rights."

The REC will also push political parties to introduce regulation

for umbrella companies and joint employment models to prevent them avoiding compliance by disguising remuneration and dodging employment law.

However, the REC does not believe that political parties should overhaul all the rules in the next 12 months. It supports the view of Margaret Beels, Director of Labour Market Enforcement, that increasing awareness of employment status and associated protections, and clarifying some of the key terms in employment matters, may increase individual confidence without fundamentally reforming employment status.

"The post-pandemic employment world does not look or feel like 2019," said Ejaz. "Forcing employee, worker or genuinely self-employed people into one status box is unworkable and reflects an old-world view of work."

The REC Manifesto for Growth will be published on the REC's website in November.

## the view...



Prepare for change ahead, but be optimistic about opportunities, says **Neil Carberry**, REC Chief Executive

It was a pleasure to see so many REC members at the Recruitment Agency Expo in October. After a year that has been more challenging for all of us – especially businesses which are perm-led – it was good to discuss business with such a wide range of people from across our profession.

As always, I was impressed by the resilience and optimism I encountered. We have had a slower year, but the complexity of the labour market and persistent shortages in some sectors means there are still opportunities. The October labour market data showed this, with vacancies still well ahead of pre-pandemic levels, even though unemployment was rising. Helping candidates and clients navigate complexity like this is our thing!

Another source of opportunity in 2024 is likely to be the belief clients have in their own businesses. Our JobsOutlook survey has shown a positive trend in this confidence over the autumn – it's very possible that lower inflation in the first half of next year will unlock some of that leading to increasing demand for recruiters.

All this said, recruitment business owners do need to exercise sensible caution and retain their perspective on the wider picture. In temp, with interest rates high, poor client payment practice can really damage your business – so practising the best client risk assessment matters. And getting unsure clients to buy will be the skill that underpins your business in both temp and perm – investing in those business development skills really matters. It was great to see over 700 REC members at our sessions with Greg Savage on this in September.

And then there's the big political change that this autumn's by-elections suggest we will see, probably in late 2024. A Labour Government – traditionally more suspicious and prone to placing new costs on our sector – will require careful navigation. But the role of the REC on all these issues is to be by your side, protecting and enhancing the contribution your business makes. And that's just where we'll be and what we'll do.



If you want to keep up to speed with all things recruitment then follow me on Twitter @RECNeil



CAMPAIGNS

## AI could help us flex to overcome labour shortages

Shazia Ejaz, Director of Campaigns at the REC

That our Overcoming Shortages campaign was highly commended by judges at the Memcom Awards 2023 in September shows the value that peers place on our leadership on addressing labour and skills shortages. After all, many of the membership bodies at the awards ceremony are searching for ways to help their members attract and retain workers in the tightest jobs market for a generation.

Our 2022 Overcoming Shortages report set out how government and business must act to create a sustainable labour market. Its publication was a lever for our campaign. It informs the conversations we have with politicians, journalists and affected organisations from freight companies to the NHS. It influenced our submission to the Chancellor before his Autumn Statement this year and frames our conversations with other business stakeholders.

Shortages are to a certain extent entrenched – as shown by the nearly three million job postings in the country, according to our data. But more change is on the way and the labour market, employers and candidates must flex.

Change happens fast these days. Since Overcoming Shortages was published there has been a surge in the use of, and interest in, artificial intelligence (AI). It is commonly accepted that AI applied well can improve resilience, retention and profitability. The Prime Minister has said that he wants the UK to be the best country in the world to start, grow and invest in tech businesses.

Perhaps this was behind MPs' suggestions at the Conservative Party Conference that technology could solve labour and skills shortages. It may not cure an NHS winter crisis or find seasonal workers in the short term, but technology will help us to hire, train and retain great workers.

Possible inspiration may come from Canada, where labour and skills shortages have hit accommodation and food services since 2021. Canadian businesses have been working with educational institutes and investing in technology and automation to alleviate the impacts.

## the intelligence...

The lesson of the 2020s is that organisations that champion EDI attract better workers who can offer new perspectives – and their customers respond favourably to it

Mukul Tiwari, REC Research Manager

You would hope that by now all employers understand that equality, diversity and inclusion (EDI) is vital for talent acquisition, as well as for organisations that wish to innovate, reflect consumer demographics, support their competitiveness, raise employee satisfaction and boost financial performance.

The recruitment process presents a terrific opportunity for companies to benefit from EDI. Implementing equitable and inclusive practices when sourcing, screening, interviewing and selecting candidates will significantly improve diversity hiring outcomes.

But a recent REC/Savanta survey shows that some organisations are lagging on EDI. They need to catch up quickly if they are to succeed and thrive.

Inclusive job ads are a first step to welcome candidates from all backgrounds. Our survey found that most UK employers encourage diversity in recruitment through inclusive job advertisement text (55%) and stating their interest in diverse candidates (29%). However, using the job advertisement to state interest in diversity is relatively less popular in private and small-scale organisations (0-49 employees) – around 67% of employers either do not do this or have no information about its use in the organisation.

Name-blind CV reviews help to prevent unconscious bias based on gender, ethnicity or age, while diverse interview panels bring in different perspectives when assessing applicants. REC research shows that only one in five (19%) of respondents have a policy of name-



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When asked about future practices, 11% said they intend to adopt a diverse interviewing policy, but only a further 1% plan to remove names from CVs. Overall, 80% of employers do not use name-blind CV screening or have no information about it. Similarly, 56% of the employers we surveyed do not use diverse interview panels. The data indicates that employers are beginning to emphasise EDI in their recruitment processes, but there is still a long way to go.

Our statistics were derived from a sample of 167 individuals who either work in the HR department or are part of management/senior management teams. The survey was conducted in June 2023.

An inclusive recruitment process expands access to talent. After all, the best person for the job may

come from an underrepresented background, but an organisation will get the chance to hire them only if they are encouraged to apply and are evaluated fairly.

Diverse teams also boost innovation and can reflect an organisation's customer base more authentically. Employees who feel valued are also more engaged, productive and likely to stay.

Organisations will have to embed EDI principles throughout their recruitment process – from sourcing to selection – if they wish to build a truly diverse workforce. Biases exist, but a considered strategy and commitment to equitable practices can lead to positive outcomes. Recruitment presents opportunities for a company to live its EDI values, not just proclaim them.

We hope to see more progress on EDI in our next survey of employers in 2024.

## big talking point

# Threats and promises

An election is coming – and productivity and the workforce are key issues for every party. What should recruiters watch for?

Change is in the air. There is a UK general election looming in 2024 and it is likely that last month's party conferences were the last before UK voters go to the polls. All the main parties were keen to announce what they would do in power and economic growth is the hottest topic. Of course everyone wants more of it – but how will they achieve it, and what will this mean for the labour market, workers' rights (and, therefore, recruiters)?

At the Conservative Party Conference, the REC's CEO Neil Carberry discussed green skills with the Rt Hon Chris Skidmore and Employment Minister Guy Opperman and participated in events on labour market participation, youth unemployment and the wider skills agenda. These will continue to be important issues for any future government.

So what are recruiters keeping an eye out for? "Talent scarcity is still a challenge, so the developments I'll be watching for will revolve around economic policies, labour and employment regulations, education and training initiatives, immigration policies, healthcare and benefits, tech and AI advancements, and post-Brexit response strategies," says Sandeep Bhandal, VP Marketing, Insight and Social Impact, The Adecco Group.

### Where do the parties differ?

Economic growth and productivity have been a rallying cry and a source of disappointment for the Government. Prime Ministers Boris Johnson, Liz Truss and Rishi Sunak each tried various policies to increase these – with limited success. Now Labour has entered the fray.

Regional transport stole the news at the Conservative Party Conference, with the scrapping of the proposed high-speed train (HS2) link from Birmingham to Manchester. Employers and commuters in Northern English cities have long complained that poor rail services reduce the region's productivity and growth, so promised investment in local services across the country are unlikely to thrill those hoping for radical change.

Another key theme was balancing business's need for a flexible workforce with greater workers' rights. The Labour Party wants to ban zero-hours contracts, clamp down on self-employment claims and end qualifying periods for basic rights. The Labour Conference passed a motion stating that Labour in power would immediately implement its 'New Deal for Working People' in full, introduce 'widespread' rollout of sectoral collective bargaining and a 'fully resourced' Single Enforcement Body and simplify union recognition.

The Government promised to increase the National Living Wage to at least £11 an hour next year. It has not yet created a Single Enforcement Body, but it recently passed a Predictable Working Act giving workers rights to request a predictable working pattern, although this is unlikely to come into force until next September.

### Welfare to work and labour shortages

All parties are striving to tempt, enable or, failing that, force people back into work, with varying combinations of carrots and sticks.

Mel Stride, the Secretary of State for Work and Pensions, told the Conservative Conference that "we are trialling a far more demanding approach with [Universal Credit] claimants at particular risk of becoming long-term unemployed. This includes far more frequent work-focused requirements, with firm sanctions for those who fail to fulfil their commitments, and more support for those who need it." This is accompanied by "reforming our sickness and disability benefit assessments... to take account of the modern workplace".

Other sessions focused on retaining older workers in the workforce by promoting employer-sponsored financial MOTs for 45-55-year-old employees to help them assess whether they can afford to retire or not.

Labour promised to tackle 'worklessness' to reduce the welfare bill. Liz Kendall, Shadow Work and Pensions Secretary, highlighted people who leave work because they can't afford childcare. She talked of 'tailoring' employment support to individual and local needs and extending the role of Job Centres to help people progress their careers, reforming Universal Credit and championing equal access for disabled people.

The Lib Dems argued that they would empower people to enter the job market by ensuring that flexible working is open to all, with employers required to state this in job adverts. They also talked of negotiating 'low-cost, fast-tracked work visas' for key economic sectors.

"Monitoring any adjustments the parties may make in labour laws, immigration regulations, and employment policies is vital," Bhandal comments. "These can all impact recruitment practices, especially if there are changes in work visas, employment rights, or discrimination laws. For example, the current asylum seeker entry programme means it can take up to three years for asylum seekers to receive a decision. Yet, as of November 2022, there were over 230,000 refugees in the UK, many of whom could help solve our labour disparities and fill both low and high skilled occupations."

### Industrial strategy

The Government wants the UK to be the next Silicon Valley. However, in a recent survey by MakeUK and accountancy firm RSM, business leaders complained that our tax and regulatory regimes make UK industry uncompetitive and said the lack of an industrial strategy is a weakness.

Labour has published an industrial strategy with four central missions: delivering clean power by 2030; caring for the future; harnessing data for the public good; and building a resilient economy. Shadow Chancellor Rachel Reeves spoke of "securonomics" – securing the UK economy by rebuilding domestic industry.

The Lib Dems have promised to develop an industrial strategy that will incentivise businesses to invest in clean technologies to grow the economy, create jobs and tackle the climate emergency. They also plan to bring down trade barriers and forge stronger relationships with trading partners.

### Skills and levelling up

The Institute of Government highlighted after the Conservative Party Conference that "the levelling up agenda no longer looks like a Government priority". The Government wants to reform A-levels, but this is unlikely to happen before the election.

Labour is focusing on this area, with Labour leader Sir Keir Starmer (*below*) talking about smashing the "class ceiling". Shadow Deputy Prime Minister Angela Rayner highlighted levelling up and the party's New Deal for Working People to deliver this.

Both Labour and the Lib Dems plan to reform the Apprenticeship Levy.



## Statistics

There were **6.1 million** people on Universal Credit in July 2023  
ONS

**Two-thirds** of business leaders believe an industrial strategy would lead to investment in skills, research and development, and decarbonisation.  
Make UK and RSM

**44%** of businesses believe the current tax and regulation system is unfavourable to competitiveness.  
Make UK and RSM

Labour wants a "growth and skills" levy to fund specialist colleges that equip workers for local industries, particularly in renewables, nuclear, engineering, computing and modern toolmaking. Meanwhile, the Lib Dems' 'Fairer Society' paper talks of a Skills and Training Levy and a Training Tax Credit to incentivise private sector training.

"As we approach the election, I'd expect to see Labour making the Levy reform a key issue – they're likely to want to spotlight perceived shortcomings in the government's levelling up ambitions, particularly concerning access to opportunities for all," Bhandal says. "We'd like to see a modular approach to reforming the levy, emphasising easy qualification updates, specialised training and support for temporary and part-time workers, in addition to a focus on green skills and other re-skilling initiatives. There's no doubt in my mind it would lead to a more purposeful, motivated and future-proof workforce."

The future is uncertain, but change is coming no matter who is in power. Recruiters should be watching carefully – as is the REC campaigns team.

## legal update

### Understand your data processing responsibilities

By Rachel Davies, REC Solicitor

Different types of data require different kinds of processing. Recruiters need to know the rules

Many recruitment businesses know that they can process data only if they have a lawful basis for doing so, but fewer are aware of their legal obligations over processing and retaining different kinds of data, such as special category or criminal offence data.

Special category data is defined in Article 9 UK GDPR (the Regulations) as data that reveals a person's racial or ethnic origin, health data, genetic data, certain biometric data, information about sex life or sexual orientation, political opinions, religious beliefs, philosophical beliefs, and trade union membership. Because of the sensitivity of this data, it has been given extra protection.

You must establish whether it is necessary to process it and confirm there is no less intrusive alternative. You should identify the appropriate lawful basis for processing in accordance with Article 6 of the Regulations which provides six bases: consent; contractual obligation; legal obligation; vital interest; public task; and legitimate interest.

The correct basis will depend on the type of data and the purpose for processing it.

To process special category data, you should apply one of the 10 additional conditions in Article 9(2) of the Regulations. The provisions that would typically apply to recruiters are either explicit consent or exercising the obligations or rights of the controller, or the data subject, in the field of employment or social security law. Recruiters who rely on the latter will also need to ensure they have an appropriate policy document in accordance with Schedule 1 of the Data Protection Act 2018. It must contain a brief description of the data being processed, details of the conditions for processing, a brief explanation of the procedures in place and a brief description of the retention and erasure policy.

Recruiters may also need to conduct a data protection impact assessment (DPIA).

Criminal offence data has special protection, although it is not in the special category. During the recruitment process,

a work seeker may declare an unspent criminal conviction which, provided it is unspent, is not afforded the same protection as spent convictions under the Rehabilitation of Offenders Act 1974. Data relating to unspent convictions can potentially be shared with a client, but there must be a lawful basis for processing it.

Businesses will also need to determine a lawful basis for processing data about criminal convictions as in the case of special category data – most probably for exercising the obligations or rights of the controller or the data subject in the field of employment law. They would then need to adopt an appropriate policy document and may need to conduct a DPIA.

Recruitment businesses should therefore not adopt a blanket approach to processing data.

### Return on effort directly impacts profitability

By Wilson Reed, Product Marketing Manager, Bullhorn

Work smarter, not harder – recruitment leaders need to help people produce more with less effort.

Creating a playbook that accurately depicts what success looks like for team members is a great way for recruitment leaders to build a repeatable and scalable process for their business.

This involves inspecting the data to unlock the secret of what makes your top performer successful. How many jobs are they working? How many CVs did they submit? How many interviews are they facilitating? Find your perfect ratio of activity to money – and share this with the rest of the team to replicate.

Great leaders are in short supply. To ensure that your leaders are as effective as possible, and use their time efficiently, ensure they never have to waste time gathering unnecessary data. Instead, they should focus on providing real-time impactful

and meaningful coaching to help their team members achieve growth.

Everyone should understand what is required of them and how to achieve it. They should be accountable for their contribution to the company's objectives. You must create vertical transparency to ensure accountability from everyone in your organisation. This means that, regardless of their position, everyone has clear expectations and the tools they require. Should an issue arise, you must know that you did everything you could to encourage success.

Ask yourself whether your team is currently operating at its maximum potential? Are your leaders effective and efficient? Are all team members accountable for their performance? If not, it's time to consider making a change to maximise return on effort in your business.



## Life lessons from founding and leading recruitment businesses

### What I know



Kim Barnes-Evans is Founder and Managing Director of The Agency

#### Core values stay the same.

I have been in recruitment since 1988. Since then I have set up new offices for large recruitment companies and also established two successful recruitment businesses of my own. For me it's about finding the right candidates for our clients and building long term relationships with both. I've seen many changes in legislation, social media and technology and I've worked through various market conditions including recessions and the pandemic. We all need to adapt, but we must also remain true to ourselves, our craft, and our core values.

#### Labour shortages are today's main challenge.

We have to be more

creative these days when recruiting for our clients and utilise social media and referrals.

Look after people; listen to people, be consultative and manage everyone's expectations. Having a good reputation, a good brand and strong communication with everyone is key.

#### Get the right people round you.

I'm a believer that you must surround yourself with the right people. My team are all members of the REC and I invest in getting the best external support for my business where required.

I'm extremely proud of what we do because every day we make a real difference to peoples' lives. I feel blessed every day!

### Q&A



Clive Hutchings is Executive Director & Founder at STR Group

#### You've recently joined the REC Board. Why?

I've spent 30 years in the recruitment industry and have helped to found a business that has grown to 150 people in the UK, US and Europe. Half our business is now outside the UK. I've always been a member of the REC – it promotes recruitment businesses, across all sectors and has the ear of the government. I want to spread knowledge of good recruitment and help others do what we do. I'm currently on an extended period of leave and will return refreshed with a slightly adjusted role, so I will have more time to dedicate to the Board.

#### What drives you?

I'm challenge-orientated. I get satisfaction from achieving things I set

out to do. I'm also really interested in people. I've just finished a solo camping trek along the West Highland Way, which was amazing. I met lots of people and learnt so much about myself; what makes me happy, tired or anxious. I've now signed up to do a mountain leader course. I've also built a woodshed, laid the foundations for a garden office, and continued to rebuild my home – all out of my comfort zone. I've made lots of mistakes and learnt a great deal.

#### What will you bring to the Board?

I understand the stresses that recruiters face daily and how hard it is for owner managers to jump from a small to a medium-sized business. I can also share knowledge of starting a business from scratch and growing it overseas.

# Reflections on my time as Chair of the REC

Sarah Thewlis REC Chair 2020-2023



I stood as a candidate for Chair in September 2020. It seems strange to think back to that time. We had just finished the first national lockdown, we were in the middle of local lockdowns, and the prospect of an effective Covid vaccine was still some way off. It was an unprecedented time. There have been more unprecedented times since.

As Chair, I wanted to make the following things happen:

- ensure we supported the regions and the four nations;
- make progress on diversity and inclusion;
- continue building up a positive reputation for the industry;
- make REC membership the jewel in the crown and the first choice for recruiters.

I also wanted to make sure that the new governance arrangements, with a smaller Board and professional and lay members, would be effective and provide leadership and scrutiny to the executive.

Despite Covid and the lockdowns, we have made progress in all these areas. I had hoped to spend some time visiting regions and the four nations, but sadly this was not possible to the extent I had hoped. I enjoyed being part of the members' events that I did get to.

All the contact that I have had has been positive, and the two awards evenings we held were brilliant: the energy and excitement and the opportunities showcased in those events are hard to describe, but they demonstrated recruitment at its optimistic best.

We have made steady progress on diversity and inclusion and it's good to see the plans moving forward. As part of this, there is an event planned for members on

28 November (you can view more details on the website).

The area where we have made most progress is the industry's positive reputation. During the pandemic, it was fantastic to see how recruiters were supporting logistics, the NHS, social care, the vaccine rollout, education and IT – the list goes on. There were so many examples of how members were able to make a difference by pivoting business to support the national community.

The REC has increasingly become a go-to voice on key people issues, and our impact has grown significantly. Our *Recruitment and Recovery* report in 2021, for example, opened a wide range of new discussions – not just with governments and the media, but also with the wider business community.

Research shows that our industry is estimated to have added directly **£43bn in gross value added** across the British economy<sup>1</sup>. The recruitment sector's contribution to the UK economy is also set to eclipse **£51.3bn by 2025**. Someone finds a permanent role through a recruitment agency **every 21 seconds**. So, it's necessary and good that our voice is heard and heeded.

Political and governmental change over the next 12 months is likely, but I know that the REC will continue to make its presence felt.

Corporate membership continues to thrive, with over 90% of members renewing each year. It's good to see that people value what the REC does. We still have some development work to do with individual membership but, again, there are plans in place.

Although there is still work to do, the

new governance structure is settling well. The Board is where healthy and robust discussions take place. I am very grateful to my fellow members past and present for their active contribution to this.

My successor Michelle Mellor has been part of that governance journey and I know that she will do a great job as the new Chair. Her commitment to the recruitment industry and its role is impressive. I have witnessed first hand her passion, thoughtfulness and integrity. I leave the Board in great hands.

Having been a CEO myself, I know that the relationship between the Chair and Chief Executive is crucial to any governance structure. I want to thank Neil Carberry for his competence, professionalism and humour. It has been a delight to work with him and a privilege to be supported by him.

The same is true of his senior leadership team, whose strength and capability has constantly been growing. The new governance structure has given them the opportunity to show their skills and at the same time enable the Board to provide appropriate input and scrutiny.

The past three years have been different from what I expected. We have had to face unexpected challenges – Covid, the cost of living and the fall-out from the war in Ukraine. But I have found my time in office very rewarding. I have had a unique chance to serve an industry that makes such a difference to the economy and to individuals. It has been a privilege, and I thank you for giving me such an opportunity.

<sup>1</sup> REC report: Recruitment and Recovery 2021



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