

## Summary note – Fit for the new dawn – business support webinars

### Outsourced services vs recruitment services and how to make the change.

#### Our regular speakers:

Paul Jacobs and Howard Greenwood from *LoveWorkLife*  
Dave Pye from *ToAugment*

#### Guest speakers:

Paul Sharpe  
Bernie Payne from *Labvolution*

### Overview of Professional Services

- Professional Services (sometimes also referred to as SOW, project work, consultancy, outsourced or contracted-out services) is where an entire service, project or product is outsourced to another company.
- On the flip side, temporary recruitment is, at its heart, a source and payroll function: a client would engage with an agency to fulfil a business need (skillset and/or task), where the agency fills the need and undertakes checks on individual's suitability but is not responsible for the quality/timings of work done by the contractor.
- "True" Professional Services arrangements make the outsourced service provider responsible, and contractually liable, for delivering an entire service, whereas the function of a recruitment agency is to provide people to support the client's own delivery of that service.

### Your questions answered

#### Q. What are the advantages of delivering Professional Services as opposed to recruitment?

- Profitability – generally higher margins are paid, albeit there are significantly more risks. Usually a percentage of the margin is allocated to cover potential liabilities.
- Almost all companies use Professional Services firms – some companies have up to 20% of their total supplier spend on these types of services.
- Closed book pricing – pricing is for the whole service, not individual people.
- Not acting as an agency - don't need to be on client's agency PSL with fixed, minimal margins and if you are on agency PSL, you don't need to abide by agreed margins when delivering professional services.
- This work doesn't go through HR (or any MSP arrangements); it's managed by individual business units or Procurement, so avoids clients' headcount restrictions.

#### What are the hallmarks of Professional Services that differentiates them from recruitment?

- The outsourced service provider:
  - Is contractually liable for the end result, the outcome.
  - Will be required to meet agreed deadlines and quality standards.
  - Decides, without any input from the customer, which resources to use, and where and when, to get the project completed for the customer.
- Ownership is key to deciding whether something is outsourced. If the success or otherwise of the project is owned by the services provider, then it will usually be a genuinely outsourced service. If the customer retains ownership of the outcomes, then it's probably not.
- Fixed price work carries a lot more risk, as all extra costs, contingencies, etc. need to be thought through in the contract upfront. Clients are generally charged a fixed price and invoices are sent to the client upon completion of fixed milestones or deliverables.
- Time and materials-based services (as opposed to fixed price) can work but won't be considered "contracted-out" for the purposes of the new IR35 rules coming into force in April 2021.

**Q: What are some of the practical & commercial considerations when thinking about delivering professional services?**

- Increased risks. The contractual obligations will generally be far more onerous than recruitment contracts in terms of warranties and indemnities.
- Contractual obligations and liabilities for performance /delivery of work/service to your customer (incl. for actions of your staff); you will need to manage performance against these obligations much more closely than in recruitment services.
- Scoping is key. Mismatch of expectations about what the service entails is most common cause for disputes in Professional Services.
- Understanding the KPIs and other performance markers, as well as methods to achieving them.
- Other things to consider are working capital, financing and insurance.

**Q: What are the resource needs for Professional Services?**

- Agencies that transitioned to delivering Professional Services use experienced Project Managers to interact with customers, as opposed to their recruitment consultants.
- Consultants can be used to source suitable contractors for services but generally not for the client-facing aspects, unless they have the relevant technical background/in-depth knowledge.
- Get a good bid writer on board, as a lot of this type of work is released through tenders.
- Professional contracts must be reviewed by a professional advisor or an in-house legal team.
- Take into account additional manual procedures such as the sign-off process, client invoicing and other front and back office processed.

**Q: Should I use a separate company for outsourced services?**

- Yes, you should consider this, as a separate entity allows you to maintain separation from recruitment services and would minimise disruption to your core business. However, make sure to update your privacy policy and understand the additional administrative work required.
- When dealing with a new entity, bear in mind that some customers may refuse to trade with that new entity if it fails their pre-engagement checks (trading/credit history).

**Q: How do Professional Services interact with the new IR35 rules?**

- As the service provider, consider whether the new rules need to be applied at all by your business and if they do need to be applied, you will need to make IR35 status determinations for any PSC contractors you use after 6th April 2021.
- Be careful when asked to switch existing contracts to Professional Services basis, as some cannot be converted and for those that can, you should charge increased margins to offset additional costs and risks.

For more information on IR35 visit the [GOV.UK](https://www.gov.uk) website, if you're a REC member, you can access our IR35 Hub [here](#). We'll be launching the dates for the REC online sessions around the new IR35 legislation next week.

**Q: What are the key elements to include in a Professional Services agreement?**

- The main commercial documentation should always include: client requirement, solution overview, scope, deliverables, schedule, costs and payments, and performance markers. Some SOWs include a section on risks and assumptions.
- Consider having an exit plan (exiting the arrangement once work has been done).

**N.B! Please note that this document is not a substitute for detailed legal advice on topics and issues covered in the webinar and should not be taken as providing specific legal advice on any of the topics discussed. Please consult a professional legal advisor or, if you're a REC member, please contact the REC legal helpline for further support (020 7009 2199).**



Presenters' contact details

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